



An  
Bord  
Pleanála

## Inspector's Report 06F.248506

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<b>Development</b>	Retention of shed, advertising signs, bicycle rack and Perspex shelter, new structure to veranda and all associated works.
<b>Location</b>	12 <sup>th</sup> Lock Hotel, Old Navan Road, Castleknock, Dublin 15.
<b>Planning Authority</b>	Fingal County Council.
<b>Planning Authority Reg. Ref.</b>	F17A/0020
<b>Applicant(s)</b>	Gossm Investments Ltd
<b>Type of Application</b>	Retention.
<b>Planning Authority Decision</b>	Split decision.
<b>Type of Appeal</b>	First party.
<b>Appellant(s)</b>	1. Gossm Investments Ltd
<b>Observers</b>	1. Cllr. Roderick Gorman. 2. John Walsh. 3. Ashleigh Residents Association. 4. Talbot Residents Association. 5. Woodpark & Area Residents

Association.

6. Irene Shelley and Myles Meagher.

**Date of Site Inspection**

5<sup>th</sup> September 2017.

**Inspector**

Deirdre MacGabhann.

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## 1.0 Site Location and Description

- 1.1. The c.0.25ha narrow, rectangular appeal site lies to the west of the M50/N3 interchange, immediately south of the Royal Canal and west of Talbot Bridge, Castleknock. It comprises the 12<sup>th</sup> Lock hotel, bar and restaurant and adjoining lands. Access to the site is from the adjoining public road, the Old Navan Road, which terminates in a cul-de-sac, c.60m to the south east of the site access. A pedestrian walkway/cycleway connects the cul-de-sac to the Old Navan Road lying to the east of the M50. Approximately 250m to the west of the appeal site is Castleknock train station. At the entrance to the site are two signs advertising the hotel building (one of these, the double sided sign, is included in the application for retention).
- 1.2. The main hotel building lies towards the western end of the site and the car park to the east. The lower ground floor of the hotel, comprising hotel bedrooms, staff accommodation and public toilets, adjoins the car park. A timber effect building has been constructed along the eastern elevation of the hotel building (included in the application for retention) and a bike rack and Perspex shelter has been installed to the south of the car park, adjacent to the hotel building (also included the application for retention). A single sided advertising sign is situated to the east side of the timber effect building at ground floor level adjoining the car park (this sign is also included in the application for retention).
- 1.3. Granite steps (also the subject of the application for retention) lead from the western end of the car park to the path alongside the canal and the main entrance to the hotel. At ground floor the hotel building comprises the hotel reception, restaurant area, stairway to lower ground floor and upper floor, bar area and a bistro bar on its western side. The bistro bar is enclosed by a retractable awning and Perspex glazing (also included in the application for retention). To the west, doors from the bistro bar lead into a small outdoor area enclosed by hedging. It contains a steel clad, wooden effect building used for serving ice creams and coffee (also included in the application for retention) and a part paved and part grassed area that accommodates c.16 painted picnic tables and a large umbrella. To the north of the area covered by the retractable awning is a bike rack (included in the application for retention).

1.4. Residential development lies to the north of the appeal site (and canal) and comprises 'The Mills' apartment development. To the north west is Woodpark, with the nearest properties c.50m and 88m from the development. To the south east, separated by the railway line and substantial mature trees is Ashleigh Green (with the nearest property c.32m from the appeal site) and, to the south west, detached properties (nearest property c.28m).

## 2.0 **Proposed Development**

2.1. The proposed development comprises the retention of the following:

- A. A wooden effect, steel clad recycling and bin storage shed to the eastern side of the public house, at lower ground floor level (car park level),
- B. A two sided advertising sign at the main entrance to the car park,
- C. A single sided advertising sign in the car park area to the east side of the recycling/bin storage building at ground floor level (car park level),
- D. The bicycle rack and Perspex shelter in the car parking area adjacent to the eastern end of the building,
- E. The bike rack along the northern elevation of the hotel at upper ground floor level (canal level),
- F. The new wooden effect, steel clad structure, used to dispense ice cream and coffee to the west of the veranda of the building at upper ground floor level (canal level),
- G. Replacement of old awning and clear Perspex side walling with new awning and Perspex side walling to include a larger footprint of the covered outdoor space (18.5sqm),
- H. New granite steps and handrail from the western end of the car park up to the canal bank path, and
- I. All associated landscaping and site improvement works.

2.2. The applicant states that the hotel was purchased in July 2016 and the previously unoccupied and run-down building has been upgraded to provide a boutique hotel and has been awarded 4 Star status by An Bord Failte Ireland. Upon completion it

came to the applicant's attention that a number of development works undertaken required planning permission and that these now form the basis of the application for retention. The rationale for each of the above structures is set out in the applicant's covering letter dated 21<sup>st</sup> February 2017 (see file).

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.1.1. The planning authority made a split decision in respect of the proposed development. It (a) granted retention for the covered storage area to the east of the hotel building, bike shelter and bike rack at rear, bike rack at front, granite stairs and associated landscaping, and (b) refused retention for the covered area, ice cream/coffee area and signage.
- 3.1.2. Retention was subject to 7 conditions. Most of these are standard conditions, governing noise, debris on the public road, services, hours of work and development charge. Condition no. 2 requires the applicant to submit revised details in respect of the covered storage area to the immediate east of the hotel building, with the northern end of structure to be aligned with the existing walls of the hotel and the walls to be suitably finished. Condition no. 3 imposes noise limits at nearby noise sensitive locations.
- 3.1.3. Reasons for refusing retention are:
- Covered area – Represents an intensification of permitted 'public bar/dining' activities on a restricted site with displacement of smoking area which would cause dis-amenity to recreational users of the canal and nearby residential development.
  - Ice Cream/Coffee Retail Unit – Development would (a) contravene Open Space zoning, being ancillary to a non-conforming use and inappropriate in the sensitive canal side location, and (b) would be contrary to condition no. 3 of FR04A/0172<sup>1</sup> which precluded access to the landscaped area adjoining the western gable of the hotel.

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<sup>1</sup> Also PL06F.206924.

- Signage – Is of a scale which is visually detrimental to the character of the area and to the setting of the development.

### 3.2. **Planning Authority Reports**

3.3. The planning authority's report refers to the planning history of the site, relevant policies of the County Development Plan, objections/submissions received and technical reports. It considers that the development is consistent with the zoning of the site which allows for the reasonable intensification of non-conforming land uses. It examines each structure which the applicant seeks to retain and comments as follows:

- Structure A (recycling and bin storage shed) – Improves the arrangements for the storage of kegs but the style is out of character with surrounding development. Recommends a reduction in scale and change in external finish of the storage structure.
- Structure B and C (two sided and single sided advertising signs) – Signage is unduly large and has a detrimental impact on the visual amenity of the area. The report notes that there is other signage in or around the building for which planning permission appears not to exist. Recommends that permission is refused for Structures B and C and that the applicant is invited to make an application for an overall signage strategy for the development and which would avoid visual clutter.
- Structure D (bicycle rack and Perspex shelter to east of building) – Bicycle rack supports and promotes sustainable access to the hotel. Design and location is considered to be acceptable and would not unduly conflict with access to the site or vehicular and pedestrian movements within the car park.
- Structure E (bike rack along the northern elevation) – Simple design, would enable cyclists to use hotel facilities without causing an obstruction to other users of the canal towpath.
- Structure F (structure to dispense ice cream and coffee) – Whilst the structure may enhance the tourist potential of the canal, it is located in an area zoned for open space, would represents an extension to the hotel (a non-conforming



use) and would not be appropriate in the zone. 'Retail' is a Use Class which is not permitted in the OS zoning and is not considered appropriate.

Recommends retention permission be refused for the Ice Cream/Coffee shed.

- Outside area to west of the veranda - Considers that the use of the paved area and grassed area immediately west of the veranda, laid out as a beer garden, appears to be unauthorised. The use of the area has not been specifically noted for retention and has in the past been the subject of previous applications and has given rise to complaints from nearby residents. The use of the space for 'terrace bistro dining' and the consumption of ice cream is contrary to the spirit and meaning of Condition no. 3 of the Board's decision under PL06F.206924<sup>2</sup>.
- Structure G (covered veranda) – Proposed development will extend the stated area of the covered space by a depth of 2620mm (not 1620mm), width remains the same. Expansion of area will not have a detrimental impact on the visual amenities of the area but its use is essentially an extension to the main building providing additional enclosed seating. The permitted veranda (decked area with retractable canvas awning) was generally open in nature and would have provided a smoking area. The full enclosure of the expanded area will result in the displacement of a smoking area to the detriment of surrounding public amenity. Recommends retention of the covered area is refused.
- Structure H (new granite steps and handrail) – Do not unduly impact on the amenities of the immediate and surrounding area. Access to the 12<sup>th</sup> Lock premises will be through a footpath designed originally to serve the adjacent canal which has been the case since the establishment of the hotel. The provision of steps is not considered to promote the consumption of food and/or drink bought in the hotel beyond the curtilage of the hotel. Recommends retention is granted for this structure.
- All associated landscaping and site improvement works – The landscaping associated with the eastern end of the hotel and car park, layout of car park and lighting of the car park are considered to be acceptable.

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<sup>2</sup> PA ref. F04A/0172.

- 3.4. The Report considers that in assessing the application for retention a balance has to be struck between supporting tourism and economic development whilst respecting and protecting the character and amenities of the local area, including nearby residents. It, therefore, recommends a split decision as set out above.

### **Technical Reports**

- 3.5. The following technical reports are on file<sup>3</sup>:
- Water Services (27<sup>th</sup> February 2017) – No objections.
  - Transportation Planning (31<sup>st</sup> March 2017) – No objections.
  - Water Services (27<sup>th</sup> February 2017) – No objections.

### **Third Party Observations**

- 3.6. There are 14 no. observations on file in response to the application for retention<sup>4</sup>. The following issues are raised in relation to the proposed development:

- Site notice – Not clearly visible.
- Policy – The Fingal County Development Plan 2017-2023 recognises the natural, cultural and heritage significance of the Royal Canal and its environs (Objective ED69, Objective CH43, pages 312 and 320 and Objective CH43 which references the Waterways Ireland Heritage Plan 2016-2020). There is therefore an onus on the applicant to ensure that the development does not undermine this.
- Signage - External signage for retention is out of character with the existing development and canal surroundings and with condition no. 4 of F04A/0172<sup>5</sup>.  
The existing external signage on the building has also been changed and

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<sup>3</sup> The Planning Officer's report also refers to a report by Environmental Health. This is not on file and is not listed on the planning authority's website as a technical report that was made. No issues are raised in the course of the appeal in respect of environmental health and I consider it is not necessary to address the matter further.

<sup>4</sup> Made by John Reid, Mary O'Brien, Carol and Dominic Kane, Fraser Hosford, Myles Meagher and Irene Shelley, Ashleigh Residents Association, John Walsh, Talbot Residents Association, Larry Pollard, Woodpark and area Residents Association, Carl and Dominic Kane, John and Rosemary Brophy, Eamon and Aileen Connelly and Cllr. Roderic O'Gorman.

<sup>5</sup> N.B. This required landscaping around the perimeter of the veranda, in the interest of visual amenity.

would not now conform to the finish that would have been agreed to by the planning authority.

- Grassed area to west of veranda - Use of grassed area conflicts with the approach taken by the planning authority and the Board which strictly restricted development in the grass area (F01A/0256/PL06F.126725; F03A/0213/PL06F.202858; F04A/0172/PL06F.206924; F05A/0760/PL06F.213758 and F08A/047). Same approach should be taken in respect of the proposed development. Use of BBQ in this area, by previous owner, ceased following complaints and enforcement (was unauthorised). Use of the outdoor space by those drinking and smoking causes disturbance to local residents (noise, light) and is out of character with the natural environment of the Canal bank. The unauthorised lighting is having an effect on the wildlife and destroying the natural heritage of the Royal Canal.
- Ownership - Picnic tables are sited on land in public ownership and should not be there. Breach of licencing laws if land is not owned by hotel and is serving drink on it. Also question ownership of land over which the new plastic covering extends. Applicant is not entitled to build on land in public ownership.
- Covered area:
  - Intensification of bar activities. Bar extension is substantial and goes against all previous planning granted for an open wooden deck area and awning (F98A/0300/PL06F.107201; F04A/0172/PL06F.206924; F05A/0760/PL06F.213578; F06A/0946). It effectively increases the available seating area by 80%. The original veranda with its open area and canopy has been replaced with a roof that is connected to the sides with integrated lighting and now resembles a conservatory.
  - Impact on semi-rural environment and on local residential amenity (residents of Woodpark). They are looking into a sports bar. Terrace is used for private hire (parties). No smoking area provided so patrons pushed outside with further impacts on local residents.

- New granite steps and handrail - These are a serious health and safety hazard as they lead directly to the public tow path and have implications for the required hammer head. Should be gated.
- Lighting - Installation of permanent lighting along the south bank of the canal from a barge near the hotel in the direction of Castleknock Road (dazzling and very dangerous to anyone walking the canal towards the hotel at night). The significantly increased lighting generates light pollution and impacts on natural heritage (refers to Waterways Ireland Heritage Plan objectives).
- Landscaping – No proper details given. Previous planning conditions for railings, landscaping and planting around the veranda sought to protect the Royal Canal. The proposed development is injurious to the semi-rural canal bank.
- Traffic and parking – Inadequate provision is made for parking (no increase in capacity with additional floor area). Will increase on-street parking on Old Navan Road and in residential areas already occurring at Twelfth Lock and is dangerous to road traffic and pedestrians. Residential development in the area has increased since the opening of the bar/hotel and therefore traffic levels. On-street parking could block access for emergency vehicles. The issue was identified in PL06F.126725 and other applications for development.
- Comments on other individual structures:
  - Structure A (recycling and bin storage shed) – This structure is out of character with the stone building and impacts on the turning area for delivery trucks and emergency vehicles.
  - Structure D (bike rack and shelter at eastern end of building) – Located in area originally marked out as hammer head turning area for delivery and emergency vehicles (condition no. 8 of PL06F.107201/PA ref. F98A/0300). Area of turning head reduced by 66% with bike rack/shelter, relocated access ramp and unauthorised steps. Location of shelter questionable for cyclists, at bottom of steep slope and at the end of a car park. Adequate provision is made for bicycles to the north of the building (structure E). Structure should be refused and hammer head reinstated.

- Structure E (bike rack) – Has necessitated the removal of landscaping around the veranda which was a condition under F04A/0172 and PL06F.206924.
- Other –
  - The business is being advertised as a sports bar rather than a restaurant, European café bar or boutique hotel. Sports bar would suit a more adult, primarily male clientele with a greater emphasis on alcoholic beverages. A hotel/café bar is more suitable for a residential neighbourhood. If a ‘sports bar’ health and safety issues come into play as there is an open canal at the front door of the building.

## 4.0 Planning History

4.1. A number of planning applications have been made in respect of the appeal site. These are set out in the planning authority’s report. However, I draw the Board’s attention to the those which are most relevant to the appeal:

- PA ref. 98A/300/PL06F.107201 – Planning permission for a 10 no. bedroom hotel on the site was granted by the Board in December 1998. (Condition no. 8 required a turning area to be provided immediately east of the hotel building).
- PA ref. F01A/0256/PL06F.126725 – Permission for the alteration of approved plans for a 10 bedroom hotel, to include changes to position of building and increased ridge height was refused by the Board on the grounds that (1) the development would lead to a short fall in parking provision and would give rise to on-street car parking and consequently traffic hazard, and (2) would seriously injure the amenity and character of the semi-rural canal bank by reason of visual obtrusiveness and encroachment onto the canal towpath.
- PA ref. F04A/0172/PL06F.206924 – Retention was granted by the Board for the structure underneath the landscaped area to the west of the veranda (to the west of the hotel building), the use of the void underneath the veranda for cold storage and bottle store, the revised internal floor layout of all floor levels, and external steel staircase to the south elevation and signage for the

building, all pursuant to PA ref. F98A/0300/PL06F.107201. (Car parking spaces are set back from the eastern elevation of the hotel building to as per condition no. 8 of PL06F.107201). The permission was subject to a number of conditions, including the following:

- No. 3 – Access to the landscaped void from the veranda adjoining the western gable of the hotel was restricted to emergency use only (to minimise noise, disturbance and activity in close proximity to residential property and protect residential amenity).
  - No. 4 – Landscaping was required around the perimeter of the veranda (in the interest of visual amenity).
- PA ref. F05A/0760/PL06F. 213758 – Retention was granted by the Board for a projecting retractable canvas awning, covering c.60sqm over the veranda/deck area along the western elevation of the Hotel. Retention was subject to one condition, that no external lighting, illumination or further signage be attached to or erected on the awning structure or veranda.
- PA ref. F06A/0946 – Permission was granted for a new acoustic sound barrier (c.12.6m long by 2.8m high) along the southern perimeter of the existing veranda, with the relocation of the existing hardwood barrier moved further west along the southern boundary.
- PA ref. FA08A/0474 – Planning permission was refused by the planning authority for external stairs connecting the car park, at lower ground level, to the main entrance to the Hotel, at ground floor level, and a decking area that wrapped around part of the east facing and part of the north facing elevation, to provide a veranda area level with the canal towpath. The development was a refused permission on the grounds that the development would (1) seriously injure the amenity and character of the ‘semi-rural’ canal bank and as such contravene the zoning objective for the area (open space) and contravene policy of the development plan to strictly control development in the vicinity of the Royal Canal, and (2) the intensification of the permitted ‘public/dining’ activities would injure residential and visual amenity of the area by way of additional on-street car parking and nuisance noise.

- PA ref. FW09A/0045 – Planning permission was granted for external stairs connecting the car park to the hotel entrance (on the Canal side of the building). Notably the development excluded any external decked/veranda area. This permission was extended under PA ref. FW09A/0045/E1.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The appeal site lies within the administrative area of the Fingal County Development Plan 2017-2023. It lies within an area zoned ‘OS – Open Space’ which stretches east and west along Royal Canal. The objective of the zoning is to *‘Preserve and provide open space and recreational amenities’*. Within the zoning, neither retail or hotel uses are permitted. However, Policy Z05 of the Plan states that the planning authority will *‘generally, permit reasonable intensification of, extensions to and improvement of premises accommodating non-conforming uses, subject to normal planning criteria’*.
- 5.1.2. Residential development to the north and south is zoned ‘RS – Residential’, with the objective of the zoning to *‘Provide for residential development and protect and improve residential amenity’*. An indicative cycle/pedestrian route, and the route of the Greater Dublin Cycle Network are shown along the northern bank of the Canal. In addition, three protected structures lie in the vicinity of the site, Granard Bridge (RPS no. 696) to the west of the site and Talbot Bridge (RPS no. 695) and Royal Canal 12<sup>th</sup> Lock (RPS 944d) to the east of it.
- 5.1.3. Policies which are relevant to the proposed development and those which have been referred to by parties to the appeal include the following:
- Tourism
    - ED59 – *‘Facilitate and contribute to the implementation of the objectives and actions identified in the Fingal Tourism Strategy 2015 – 2018 for the economic benefit of the County’*.
    - ED60 – *‘Develop the necessary tourism infrastructure, visitor attractions and supporting facilities at appropriate locations in the*

*County in a manner that does not have an adverse impact on the receiving areas and the receiving environment’.*

- Recreational Trails
  - ED69 – *‘Promote and facilitate the development of the Royal Canal Greenway taking full account of the need to protect the natural and cultural heritage of the Canal route and the need to avoid significant adverse impacts on European sites and species protected by law ...’*
- Industrial Heritage
  - CH43 – *‘Protect and enhance the built and natural heritage of the Royal Canal and ensure that development within its vicinity is sensitively designed and does not have a detrimental effect on the character of the Canal, its built elements and its natural heritage values and that it adheres to the Waterways Ireland Heritage Plan 2016-2020’.*

5.1.4. Section 9.4 of the Plan deals with Landscape, and refers to the landscape character assessment carried out in respect of the county. The appeal site falls within a ‘River Valleys and Canal Character Type’. The Plan states that *‘The canal and its corridor provide valuable habitat for fish and other species and is a pNHA. The canal itself and many bridges and other structures associated with it are an integral part of the County’s architectural heritage’*. Policy objective NH33 seeks to ensure *‘the preservation and uniqueness of a landscape character type by having regard to the character, value and sensitivity of a landscape when determining a planning application’*.

## 5.2. Natural Heritage Designations

5.2.1. The Royal Canal is designated as a proposed Natural Heritage Area (Table BD01) of the County Development Plan and policy objective NH16 of the Plan seeks to protect its ecological integrity.

## 5.3. Fingal Tourism Strategy 2015 to 2018

The Strategy document identifies the Royal Canal as a heritage attraction in Fingal. It states that the Royal Canal, 8km of which passes through the plan area, represents a valuable amenity asset, with, as yet unexploited tourism potential.



Strategic objectives of the Plan seek to conserve the County's rich natural heritage and specific actions seek to explore the potential to develop a Liffey Valley Greenway with a possible link to the Royal Canal.

#### **5.4. Waterways Ireland Heritage Plan 2016 – 2020**

- 5.4.1. The overarching objective of the Heritage Plan is *'to identify and protect the unique waterways heritage and promote its sustainable use for the enjoyment of this and future generations'*. The Royal Canal is identified in the plan as one of the navigable waterways that Waterways Ireland has responsibility for as the State's navigation authority. Objective 3 of the Plan seeks to promote the integrated management, conservation, protection and sustainable use of the inland navigable waterway asset. Actions to be progressed under this objective include (no. 3.7) to work with local authorities to support the development and implementation of green infrastructure strategies, in recognition of the importance of the inland waterways as green corridors to local towns and villages as well as compliance under Article 10 of the Habitats Directive, and (no. 3.9) to raise awareness on light pollution and the impacts of artificial lighting on wildlife, built heritage and enjoyment of nature.

## **6.0 The Appeal**

### **Grounds of Appeal**

- 6.1. The first party appeal makes the following arguments.
- Matters raised by observers:
    - Legal ownership of land to the west of the hotel – The red line boundary extends to the lands within the ownership of the applicant.
    - Steps to car park – These comply with Part K and Part M of the Building Regulations and are not dangerous. They are a positive amenity to hotel users.
    - Installation of permanent lighting – No lighting forms part of the application.
    - Sports bar – The applicant does not run a sports bar but has renovated rooms in the hotel with a view to upgrading from a three to a four-star

hotel. The ice cream stand promotes family's sitting outside at the canal side.

- Objections – Have come from parties removed from the development. Applicant also has support for the proposed development from within the local community (letters attached).
  - Turning circle for trucks – This does not form part of the application. However, the turning area is fully compliant and is acceptable to the Transportation Department and was not mentioned in any Enforcement letter.
  - Traffic and parking – The car park is able to cater for the level of patrons using it. Many cars park on Old Navan Road outside the site to park and walk to Castleknock Train Station, c.150m away.
  - Use of terrace - The area has never been hired out to private parties and it is not the applicant's intention to do so.
- Principle of development – The zoning Z05 allows for reasonable intensification of, extensions to and improvement of, premises accommodating non-conforming land uses e.g. a hotel, subject to normal planning criteria.
  - Covered area – The increase in depth of the covered veranda represents a modest extension to the permitted public bar/dining area (5.4m in 2005 to 8.05m i.e. 2.64m) and a relatively small increase in floor area of the hotel i.e. 933sqm to 963sqm or 3% of total floor area. In F04A/0172 the veranda was shown as 6.34m). The number of covers has been reduced from c.100 to c.78. Such a small extension is in keeping with Objective Z05 (see photographs 5 and 6 of submission). The Planning Officer's report raised no concerns regarding the use of material for the veranda. The Planning Report focuses on displacement of smokers. There is no reference in the development plan for bars/dining areas to make provision for smokers. Smokers are less likely to go to a bar/dining area where there is no designated smoking area (Department of Health's paper 'Tobacco Free Ireland') and there is likely, therefore, to be less smokers than previously. Noise levels will also reduce with the removal of the permanent open veranda. The nearest dwelling is c.31m from the veranda. The new awning is retractable and the windows can be removed if required. Refers to an

accompanying noise report which was conducted in 2016 (before it reopened) and in 2017 (after it reopened). It concludes that the activities at the 12<sup>th</sup> Lock Hotel do not contribute to the noise levels measured at 4 noise sensitive receptors in the vicinity of the Hotel, that the noise levels were typical of that of a busy bar, and that trains passing by were the highest contributor to noise.

- Ice cream/coffee stand – Policy Z05 allows for a reasonable intensification of, extensions to and improvement of premises of non-accommodating uses. The ice cream/coffee stand is located to the rear of the veranda. It is an attractive amenity for customers on hot days and for families with young children. It can be accessed without going through the bar area. By virtue of its location, size and turnover it principally acts as an ancillary use or function the main hotel. The development provides for amenities in the canal side area and is consistent with the Fingal Tourism Strategy 2015-2018. Condition no. 3 of planning permission F04A/0172 was granted under and different development plan and the Fingal Tourism Strategy 2015-2018 was not in force at the time. The current development plan places a greater emphasis on developing the Royal Canal as a tourist amenity than the older plan. Change of use of a public house to retail is exempted development under class 14 of the 2001 Planning and Development Regulations, 2001. Restaurant to a shop is also exempted under class 14.
- Signage – The other signs noted by the planning officer were not noted by the planning enforcement officer in his report, or by others. Not all may require planning permission. No reference is made in the Planning Report to what policy the signage contravenes (in terms of size or design). Guidelines by the NRA on signage suggest it should be an appropriate size for road users and road grade. The Fingal Tourism Strategy's survey of those involved in tourism highlighted a lack of signage across the countryside and a need for better signage. The signs at 12<sup>th</sup> Lock are in keeping with NRA guidelines and the Fingal Tourism Strategy and are of a scale, proportion and design that reflects the size of the business and brand. The planning authority has granted permission for much larger and more extensive signage (e.g. Portmarnock Hotel and Golf Links, PA ref. F15A/0426, situated in a High Amenity Zone).

- Condition no. 2 – If reduced in size the northern part of the service area will become visible to walkers along the Canal and create an eyesore. Request the condition to be removed.
- Condition no. 3 – As noted in the noise assessment report, the levels of noise recorded at the site at various locations, both before the hotel reopened and after, were above the levels outlined in the condition (see attachment to submission). It is not possible therefore to comply with the condition as worded because background noise levels already exceed it. Requests condition be amended or removed.
- An Bord Pleanála decisions relating to non-conforming uses and extensions in Fingal – The Board has issued a number of decisions to grant planning permission on non-conforming uses and extensions (i.e. objective Z05), where the planning authority has previously refused it (F06A/1514/ PL06F.221465; F07A/1360/PL06F.227381; F11A/0230/PL06F.239518).

### **Planning Authority Response**

6.2. In response to the appeals made, the Planning Authority make the following additional comments:

- Covered area - Acknowledge the relatively small increase in footprint of the covered area. The enclosed nature of the structure will result in the displacement of smokers and other customers from the enclosed area into the other areas in the vicinity of the establishment, notably the area immediately to the west that is partially paved and set out like a beer garden. They state that this area has never been granted planning permission to be used as such and is designated as Open Space in the Fingal County Development Plan 2017-2023.
- Ice cream/coffee retail unit – This is considered to be inappropriate and out of character at this location given the OS zoning which applies to the open, well vegetated, recreational, uncluttered and uncommercial nature of the immediate area beside the canal. They state that the needs of the public for food, drink and other refreshments can be adequately catered for from facilities within the existing Hotel building.

- Signage – No new issues raised.
- Condition no. 2 of the permission – Acknowledge that this provides a closed area for bins etc. but consider that this it is overly long and as such would appear less visually obtrusive with a reduction in length.

### **Observations**

6.3. There are 6 no. observations on the appeal. These are made by Cllr. Roderic O’Gorman, John Walsh, Ashleigh Residents Association, Talbot Residents Association, Woodpark and Area Residents Association and Irene Shelley and Myles Meagher. The parties generally support the decision of the planning authority, stating that it strikes the right balance allowing the refurbishment of the hotel while preventing over-intensification of bar activity and overdevelopment which is contrary to OS zoning. They re-iterate points made in observations on the planning application (summarised above) and make the following additional comments:

- Signage – The sign at the entrance to the car park restricts the view of motorists entering and exiting the car park on to the Old Navan Road (which has a cycle lane and which is used by pedestrians).
- Lighting – Has been significantly increased (strength). Impact of light pollution on natural environment (e.g. bats), and suitability of lighting, should be considered. The covered area is lit by lighting attached to the awning/roof but the colour can be altered. As such it is not in tune with the semi-rural canal bank.
- Covered area – Proposed development comprises the transformation of an open veranda into an enclosed extension of the existing bar. This, with its large TV screens, additional lighting and noise, impinges on local residents. The development is fully visible from houses in Woodpark. Smokers are already using space beside the Hotel to smoke (outside the covered area and along the banks of the Canal). Drinkers are now free to go onto the canal bank with drinks purchased in the bar (see photographs in submissions). An additional waiting station and associated computer has been added within the covered area, firmly removing any semblance of an outdoor area. The wooden effect, steel clad structure should be refused and the outdoor seating area and umbrella removed and grassed landscaped area reinstated.

- Precedents – The cases referred to by the applicant relate to extensions to nursing homes in areas zoned as green belts and are not relevant to this development.
- Car park – Has recently been remarked and the layout changed. The alterations have been made to cater for an increase in floor area, bar and dining activities and bedrooms (increased from 10 to 12 and not mentioned in plans). A separate application should be made for all site improvement works that require planning to be made.
- Noise – Residents have observed private parties taking place in the covered area of Hotel. On occasions noise has been excessive with complaints made to Blanchardstown Gardaí.

## 7.0 **Assessment**

7.1. I have read the appeal file, reviewed the statutory development plan for the site and I have carried out an inspection of it and the adjoining lands. I consider that the key issues arising in respect of the proposed development are confined to the matters raised in the course of the application and appeal and comprise:

- Principle of the development/policy context.
- Recycling and bin storage shed/Condition no. 2 of the permission.
- Signage.
- Bike racks.
- Steps.
- Covered area/ice-cream/coffee building.
- Traffic and parking.
- Noise/Condition no. 3 of the permission.
- Landscaping.

7.2. In addition to the above, third parties refer to use of the facility as a sports bar, increase in bedroom numbers, external lighting and land ownership. The application is for the retention of stated structures within the appeal site. Use of the bar area, as

a sports bar or otherwise, is not dependent on planning status and is therefore outside the scope of this appeal. Any increase in the number of bedrooms on site is a matter for enforcement. With respect to the reference made to lighting arising on the barge near the hotel. This matter relates to a separate landholding and also therefore falls outside the scope of this appeal. I note that the applicant indicates that he is the owner of the application site. No information is presented by any party to contradict this information and I consider that the applicant has, therefore, indicated adequate interest in the lands to make the planning application.

### **7.3. Principle of Development/Policy Context**

- 7.3.1. The appeal site lies within the OS zoning of the current Fingal County Development Plan that is designated alongside the Royal Canal. The objective of the zoning is to preserve and provide open space and recreational amenities. Within the zoning, neither hotel or public house uses are permitted, however, Policy Z05 states that the planning authority will, generally, permit reasonable intensification of/ extensions to/ improvement of premises accommodating non-conforming uses, subject to normal planning criteria. Other policies of the County Development Plan, the Fingal Tourism Strategy 2015 to 2018 and the Waterways Ireland Heritage Plan 2016 – 2020 recognise the value of the Royal Canal for its industrial heritage, tourism potential, as a greenway and as a natural habitat.
- 7.3.2. 12<sup>th</sup> Lock Hotel is situated immediately adjoining the canal, alongside 12<sup>th</sup> Lock. The canal, between Granard Bridge and Talbot Bridge, with its grassy bank, towpath and mature vegetation, is very attractive. The hotel building, which is single storey towards the canal, is a non-conforming use within the OS zoning alongside the canal. However, the proposed development (a) comprises the extension to and improvement of the existing use and is therefore consistent, in principle, with the zoning objective, and (b) provides hospitality to visitors and bicycle parking and therefore contributes to the development of the tourism potential of the canal and its use as a greenway. I consider, therefore, that the proposed development is, in principle, acceptable on the appeal site.

#### **7.4. Recycling and bin storage shed/Condition No. 2 of the Permission.**

- 7.4.1. The recycling and bin storage shed to be retained comprises a low rise steel clad storage building to the east of the existing hotel building. It extends beyond the northern elevation of the hotel by c.3m and is finished in wooden effect. When observed from the car park I would accept that the external finish to the building is not in keeping with, and detracts from, the stone finish on the eastern elevation of the hotel as well as the other traditional features of the lock-side environment. Further, the extension of the storage building beyond the northern building line detracts from the simplicity and balance of the eastern elevation. Whilst I would accept that it would be inappropriate that the service area become visible to walkers along the canal, I consider that in the interest of visual amenity, the structure and the associated area be reduced in size along this northern boundary (see photographs 19 and 20 attached to this report).

#### **7.5. Signage**

- 7.5.1. As stated, 12<sup>th</sup> Lock Hotel is situated in an attractive canal side environment. There are no development plan standards for waterway signage and I note that in practice type of signage that appears alongside the canal network in Ireland differs substantially from one location to another and from one use to another. Notwithstanding this, I would accept that the signage for which retention is proposed is substantial and not in keeping with other historic features of the particular location of the development e.g. the timber and cast iron fixtures and fittings associated with the canal and lock. I draw the Board's attention to the policies of the County Development Plan which specifically seek to protect the built and natural heritage of the Royal Canal and to ensure that development within the vicinity is sensitively designed (policy CH43). I am minded, therefore, to recommend that permission for the two signs to be retained be refused.

#### **7.6. Bike Racks**

- 7.6.1. The applicant proposes retention of two no. bike racks, one with a Perspex roof to the east of the hotel building and one (uncovered) to the north of the hotel building.



These two bike racks are relatively minor structures, which facilitate the requirements of cyclists and which are provided along a recognised greenway.

- 7.6.2. The proposed bike rack to the east of the hotel building is proposed in an area which was required to be given over to a turning/service area (PL06F.107201). I would accept that there is some erosion of this area with the bike rack and granite steps. However, also I note that the location of the service ramp has been moved to the southern boundary of the car park from its original position and that the bike rack and steps have a small land take. I do not consider, therefore, the loss of deliveries/services area to be substantial or to prevent use of the area for deliveries/services.
- 7.6.3. The bike rack to the north of the hotel is again a small structure and does not detract substantially from any landscaping or the visual amenity of the area.

#### **7.7. Steps**

- 7.7.1. The application for retention proposes granite steps to the north east of the hotel building, to connect the car park to the main entrance to the north of the Hotel. The granite steps are well designed, with ironmongery that reflects the setting of the hotel adjacent to the canal and lock. I note that pedestrian access to the hotel has traditionally been from the car park to the canal bank. I do not consider the arrangement, therefore, to be inappropriate or to give rise to health and safety issues.

#### **7.8. Covered Area and Ice Cream/Coffee Building**

- 7.8.1. The application for development includes replacement of the old awning and clear Perspex side walls with a new awning and Perspex side walls over an enlarged floor area.
- 7.8.2. I note that the covered veranda permitted under PL06F.213758 extended 5.43m from the western side of the Hotel building and for the full width of the building to 12.231m. In contrast the proposed development is 7.650m by 11.43m (being set back from the northern elevation of the Hotel building). The proposed development increases the floor area of the veranda area by c.21sqm (from c.66sqm to c.87sqm).

- 7.8.3. The permitted awning comprised partially open sides under a retractable awning (see photographs 5 and 6 of appeal). As viewed at the time of site inspection, the proposed replacement side walls, are fixed to the steel structure and, whilst removable, provide a fully enclosed seating area. Whilst I accept that the number of covers may have been reduced, the development nonetheless effectively and substantially increases the size of the bar/bistro area in day to day use.
- 7.8.4. Policies of the County Development Plan permit the '*reasonable intensification of, extensions to and improvement of premises accommodating non-conforming uses, subject to normal planning criteria*'. The question here is essentially if the proposed extension and semi-permanent enclosure of the veranda represent a reasonable intensification of the non-conforming development. (I note the references made by the applicant to other cases considered by the Board where they decided to grant planning permission for non-conforming uses or extensions. However, I consider that each case referred to is site specific and has been determined on its own merits. Consequently, the precedents referred to are not directly relevant here).
- 7.8.5. In considering the issue of reasonable intensification, I note that the extended veranda area, with Perspex walling and replacement awning are well designed, low in profile and marginally extend the built footprint of the Hotel. I would consider, in this respect, the proposed development is reasonable in terms of its physical structure. Further, with the enclosure of the area, noise emanating from the covered area is likely to be reduced.
- 7.8.6. In their decision to refuse permission, the planning authority argue that the enclosure of the veranda will encourage smokers to outside of the building. Whilst I accept this point in principal I am not confident that numbers of displaced smokers would, of itself, would lead to such an intensity of use that it would detract from the amenity of the canal and surrounding residential development. However, the proposed development (extended covered area) comes forward with a proposed ice-cream coffee building, also for retention, and plans for the development indicate the external area in the vicinity of the ice cream/coffee building for 'terrace bistro dining' (see drawing 'Ground Floor Plan, Site Plan, Elevations' submitted with the appeal). There is no application for retention of this area in the current application.

- 7.8.7. Whilst I would accept that the ice cream/coffee building would be ancillary to the main hotel use and provide additional recreational amenities for users of the canal bank, members of the public would be drawn to a landscaped area for which no permission exists for its use. Further, if used as indicated, as a terrace bistro dining area, the proposed development would substantially increase the capacity of the hotel to accommodate members of the public and extend the bar and dining facilities further west into an area of the site which has to date been refused by the Board on the grounds of impact on local and residential amenity.
- 7.8.8. Having regard to the quiet canal side environment in which the development is situated, I consider that the collective increase in the scale of the development (enclosed covered area, ice cream/coffee building and likely use of the associated open space area) would detract from the quiet amenity of the canal side location, particularly at weekends and in the evenings.
- 7.8.9. Whilst residential development is somewhat removed from the western end of the hotel, and separated by substantial vegetation (see photographs accompanying this report), I would accept that increased use of this outdoor space would also give rise to noise and light pollution that would detract from the residential amenity of the nearest residential development.
- 7.8.10. Having regard to the above, I would recommend, therefore that permission be refused for the proposed ice cream coffee building but granted for the extended covered area and replacement awning/Perspex sides, with the applicant required to submit detailed proposals for lighting of the extended covered area (to minimise light pollution in the area, for residents and for the natural environment). Whilst use of the external area as a terrace bistro dining area would remain a matter for enforcement, I would also recommend that the applicant be required to submit details in respect of landscaping of the external area to the west of the awning to provide a small and confined smoking area e.g. in the approximate location of the proposed ice cream coffee building. (This would also have the effect of limiting the use of this external area for smoking).
- 7.8.11. I consider that this arrangement would facilitate the reasonable extension of the existing use on the site (in line with Development Plan policy) and the development of the canal as a greenway and for tourism, whilst restricting the aspects of the

development which would detract from the quiet amenity of the lock side environment and the amenity of the residential areas in the immediate vicinity of the site. (The development would also therefore be consistent the Board's previous decisions in respect of the site which sought to limit access to the outdoor space to the west of the hotel and impacts arising from the covered area, in the interest of residential amenity).

## **7.9. Traffic and Parking**

- 7.9.1. At the time of site inspection, I noted considerable on-street parking in the vicinity of the site. However, at the time, the Hotel was open and residents and other members of the public were using the bar and dining facilities. The car park was not fully utilised and it appears that the on street parking is related to other uses (e.g. parking for Castleknock Train Station to the west of the site). The proposed development provides, collectively, a substantial increase in the area of the dining area (extended covered area, ice cream/coffee building and likely associated use of landscaped area). If the Board are minded to grant retention for the development in its entirety, I would be concerned that the requirement for additional parking spaces has not been adequately considered or addressed (1 per 15sqm of restaurant/bar space). However, if the ice cream/coffee building is omitted (and therefore any associated use of the landscaped area) as proposed above, there would be a modest requirement for c.1 parking space (i.e. 21sqm of additional dining/bar area provided).
- 7.9.2. There does not appear to be any evidence of capacity problems in the hotel car park itself. Further, additional provision is made to accommodate cyclists and the hotel lies in close proximity to the rail line. Having regard to these matters, and the absence of any concerns by the planning authority in this regard, I consider that the proposed development could be accommodated within the existing arrangements for car parking, without give rise to any significant on street parking or traffic hazard.

## **7.10. Noise/Condition no. 3 of the Permission**

- 7.10.1. The planning authority's grant of permission limits noise emissions such that at nearby noise sensitive receptors they do not exceed the background level by 10dB(A) or more, or standard specified limits (condition no. 3).

- 7.10.2. The appellant argues that noise levels at various noise sensitive locations, before the hotel was reopened (the hotel was closed for c.1 year prior to purchase by the applicant in July 2016) exceeded the specified noise limits, and therefore it is not possible to comply with the condition, which requires compliance with 'whichever is lesser'.
- 7.10.3. From inspection of the site, it is apparent that the appeal site and nearby residential development lies in an urban area where there is a continuous presence of background noise, including from the M50, local roads and the railway. I note that high levels of background noise were also observed in previous appeals in respect of the site, which have been determined by the Board. I would accept the appellant's argument, therefore, that as worded the condition would be unenforceable.
- 7.10.4. As stated above, it is my view that if the use of the extended covered area and ice cream/coffee building were to be approved, this would comprise a substantial intensification of the Hotel use on the site. Further, it is likely that the extension of the outdoor area, which would not have the benefit of any acoustic barrier would give rise to noise, in particular, in the evenings and late at night that would be detrimental to the canal side environment and amenity of nearby residential property. However, if the development were restricted to the extended bistro bar area, which provides a small increase in the covered dining/bar area, I do not consider that this would give rise to any substantial increase in noise, over and above that arising from the previously covered area.
- 7.10.5. In addition to the above, I note that none of the Board's previous decisions in respect of the appeal site have included specific noise controls. I am minded therefore to recommend a grant of retention, for the extended bistro bar area, without specific noise controls. If significant noise nuisance does subsequently arise from the development it can be dealt with under separate environmental legislation.

## 7.11. Landscaping

- 7.11.1. The applicant has submitted little information in respect of landscaping to be retained on site. This matter could be addressed by condition.

## 8.0 **Appropriate Assessment**

- 8.1. The proposed development comprises minor works to an existing hotel building, within an existing serviced site. Further, the development is substantially removed from any nearby Natura 2000 sites (see attachments). Consequently, it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans and projects on any European site.

## 9.0 **Recommendation**

- 9.1. Having regard to my comments above, I recommend that:
- a. Retention be granted for the new wooden effect, steel clad recycling and bin storage shelter, bike rack and Perspex shelter in the car park, bike rack along the northern elevation of the hotel, replacement awning and Perspex side walling to include a larger footprint of the covered area, new granite steps and landscaping, and
  - b. Retention be refused for the 2 sided and single sided advertising signs and the wooden effect and steel clad structure for dispensing ice cream/coffee.

## 10.0 **Reasons and Considerations 1**

- 10.1. Having regard to the nature, location, modest scale and detailed design of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would comply with the provisions of the Fingal County Development Plan 2017 to 2023 in respect of non-conforming land uses, would be acceptable in terms of traffic safety and would not seriously injure the amenities of the area or the residential amenity of properties in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Conditions**

1. The development shall be retained 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 in accordance with the agreed particulars.

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

2. Within three months of the date of this order, revised plans and particulars shall be submitted to the planning authority for written agreement indicating:
  - i. The covered storage area to the east of the Hotel building aligned with the existing walls of the Hotel building immediately to the west, such that the northern end of the storage building aligns with the existing northern wall of the Hotel building.
  - ii. Revised details in respect of the external finish of the storage area, to compliment the adjoining Hotel wall.
  - iii. Landscaping of the area to the west of the hotel building and covered area, to include (a) a modest smoking area, and (b) restricted public access to the remaining open space area.
  - iv. Arrangements for lighting of the covered area.

**Reason:** In the interest of visual amenity and residential amenity.

3. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.

**Reason:** In the interests of visual and residential amenity.

4. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will 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.

5. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

**Reason:** In the interest of sustainable waste management.

6. All necessary measures shall be taken to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of works on the subject site.

**Reason:** In the interest of traffic safety and visual 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 prior to commencement of development 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.



## 11.0 Reasons and Considerations 2

1. Having regard to the zoning of the site, the objective of which is to preserve and provide open space and recreational amenities, and the nature of the proposed development which includes the structure for dispensing ice creams/coffee, it is considered that the proposed development, would comprise a substantial increase in the external area of the development for public use, would constitute an unreasonable intensification of the non-conforming use and therefore, contravene materially the said zoning objective and be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the site adjoining the Royal Canal and policies of the Fingal County Development Plan 2017 to 2023 which seek to protect and enhance the built and natural heritage of the Royal Canal and ensure that development within its vicinity is sensitively designed, it is considered that the large double sided entrance sign and single sided sign at the entrance to the hotel are of a scale and form that is visually detrimental to the character of the area and the canal side setting. The proposed development would therefore conflict with policies of the County Development Plan and be contrary to the proper planning and sustainable development of the area.

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Deirdre MacGabhann

Senior Planning Inspector

11<sup>th</sup> September 2017