



An
Bord
Pleanála

Inspector's Report ABP300744-18

Development	Continuation of change of use from Butcher Shop/Retail Use to Café/Restaurant with change in opening hours of 10 a.m. to 9 p.m. Monday to Sunday.
Location	No. 25(a) Bath Avenue, Dublin 4.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	4141/17.
Applicant	Farmer Browns Eatery.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party -v- Grant.
Appellant	Max De Laloubie.
Observers	None.
Date of Site Inspection	23 rd April, 2018.
Inspector	Paul Caprani.

Contents

1.0 Introduction	3
2.0 Site Location and Description	3
3.0 Proposed Development	4
4.0 Planning Authority's Decision	4
5.0 Planning History.....	6
6.0 Grounds of Appeal.....	7
7.0 Appeal Responses.....	9
8.0 Development Plan Provision.....	9
8.1. Dublin City Development Plan 2016-2022	9
8.2. Natural Heritage Designations	11
9.0 Planning Assessment	11
10.0 Conclusions and Recommendation.....	15
11.0 Decision	16
12.0 Reasons and Considerations	16
13.0 Conditions	16
14.0	17

1.0 Introduction

ABP300744-18 relates to a third-party appeal against the decision of Dublin City Council to issue notification to grant planning permission for a change of use to café/restaurant at ground floor at No 25(a) Bath Avenue, Dublin 4. The grounds of appeal argue that the café/restaurant use is giving rise to significant residential amenity issues in terms of noise and disturbance and has often given rise to odour, litter and vermin problems in the area. The grounds of appeal also suggest that there are some discrepancies in the planning application submitted.

2.0 Site Location and Description

- 2.1. The appeal site is located on the southern side of Bath Avenue, which links Haddington Road to the west with Irishtown Road further east. It is located approximately 2.5 kilometres south-east of Dublin City Centre. Bath Avenue is primarily a residential street accommodating many late 19th century terraced two-storey houses. More modern inter-war type suburban dwellings are located on the northern side of Bath Avenue directly opposite the site. The subject site forms the western end in a block of two-storey residential infill dwellings dating from the 1950s. The other buildings in the terrace block remain in residential use. However, the subject site accommodates a restaurant and café at ground floor level including an outdoor seating area to the front of the building.
- 2.2. Two-storey Victorian residential dwellings are located on the eastern side of the subject site. While the area is primarily residential, there are a number of commercial/hospitality uses in the wider area including the Bath Public House and Restaurant which is located almost directly opposite the site. Further eastwards along Bath Avenue near the railway line and near the junction of Bath Avenue, Haddington Road and Grand Canal Street Upper, there is a greater concentration of commercial type uses. The subject site is located approximately 150 metres east of this area. The subject site backs onto Shaw's Lane a common yard area is located to the rear of the site.

2.3. The site itself accommodates an indoor restaurant with the seating area located to the front of the premises while a kitchen, food and preparation area and a food storage area is located to the rear of the premises. Customer toilets are located between the kitchen area and the seating area. Currently an outdoor seating area is also provided to the front of the premises. This area is covered by a plastic awning. The name of the restaurant “Farmer Browns” has been erected on white fascia board above the ground floor level.

3.0 Proposed Development

3.1. Planning permission is sought for a change of use from a butcher’s shop/retail premises to a café/restaurant. An Bord Pleanála under Reg. Ref. 29S.242244 granted a temporary planning permission for the use of the subject site for a restaurant in November, 2013. Condition No. 2 of this permission stated that the restaurant shall cease within 3 years of the date of this order unless authorised by a further grant of planning permission. In a subsequent application and appeal Dublin City Council issued notification to refuse planning permission for the proposed continuation of the use of the premises as a restaurant. This decision was upheld on appeal by the Board on the grounds that the restaurant would seriously injure the residential and visual amenities of the area by reason of noise emissions and the provision of a protruding canopy for outdoor seating.

3.2. Under the current application it is proposed to omit the outdoor seating area and the associated canopy. It is also proposed to remove the existing signage above the ground floor level. It is also proposed to reduce the opening hours of the business from 10 a.m. to 9 p.m.

4.0 Planning Authority’s Decision

4.1. Dublin City Council issued notification to grant planning permission on 18th December, 2017. Condition No. 2 of this permission restricted the use to a period of 3 years.

- 4.2. Condition No. 3 required odour abatement measures and noise abatement measures while Condition No. 4 restricted the hours of operation to between 10 a.m. and 9 p.m. on any given day. It also set out details in relation to the handling of refuse.
- 4.3. Condition No. 5 prohibited the use of the premises as a take-away facility for hot food. While Condition No. 10 required the full details of any proposed external quality signage will be agreed with the Planning Authority prior to the commencement of development.
- 4.4. **Documentation Submitted with the Application**
- 4.4.1. A **Planning Report** submitted with the application details the history of the premises and the alterations proposed under the current application. It states that the semi-permanent outdoor seating area and canopy will be completely removed from the proposed development as part of the current proposal. The opening hours will be restricted to 9 p.m. in the evening and it is proposed to rebuild the front boundary wall as well as change the signage on the site. The planning report goes on to address previous objections submitted in respect of the proposed development. The report places emphasis on the established commercial use on the site and highlights similar type developments in the wider area. It is concluded therefore that the proposed development will address concerns in respect of residential amenity and is appropriate for the site in question.
- 4.4.2. A number of observations were submitted objecting to the proposed development. The observations considered that the proposal represents an inappropriate development which is surrounded by residential dwellings and that a grant of planning permission would contribute to the cumulative loss of residential amenity along Bath Avenue.
- 4.5. **Internal Reports**
- 4.5.1. A report from the Engineering Department states that there is no objection to the proposed development subject to the developer complying with the greater Dublin Regional Code of Practice for Drainage Works.
- 4.5.2. The planner's report notes that the site is in an area zoned Z1 (residential) and under this zoning restaurant uses are open for consideration. While it is noted that the site has always had a commercial use, it is only in recent times that a restaurant use has

been permitted. It is further stated that the file has been reviewed by the Environmental Health Section and they have recommended that conditions be attached. It is considered that the applicant has proposed sufficient changes with this application to overcome previous reasons for refusal which related to visual and noise issues. It is therefore recommended that planning permission be granted for the proposed development.

- 4.5.3. In its decision dated 18th December, 2017 Dublin City Council issued notification to grant planning permission for the proposed development.

5.0 Planning History

- 5.1. The planner's report notes that an enforcement file was opened on foot of a complaint that a café was operating on the premises without the benefit of planning permission (E0226/13). It states that at the time of writing, the file remains open and contains a number of complaints that allege non-compliance with conditions associated with the original planning permission Reg. Ref. 2533/13.

- 5.2. One history file is attached.

Under **PL29S.242244** (P.A. Ref. 2533/13) An Bord Pleanála overturned the decision of the Planning Authority to refuse planning permission and granted retention of change of use to a restaurant together with front awning and all ventilation and ducting for a period of three years.

Under Reg. Ref. **PL29S.248262** (file not attached) planning permission was sought for the continuation of a restaurant use under PL29S.242244 at the subject premises. The Board in its decision of 2017 refused to grant the continuation of the use based on the reasons and considerations set out below.

Having regard to the location of the restaurant directly adjacent to residential properties, the Z1 zoning of the site, the guidance in Section 16.24 of the Dublin City Development Plan 2016 – 2022 for the appropriate location of restaurants, Section 14.7 of the Dublin City Development Plan 2016 – 2022 for uses within transitional zones and the shopfront guidelines, it is considered that the proposed development consisting of a restaurant would seriously injure the residential and visual amenities of the area by reason of noise emissions and protruding canopy for outdoor seating.

The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

6.0 Grounds of Appeal

6.1. The decision of Dublin City Council to issue notification to grant planning permission was the subject of a third-party appeal on behalf of Max De Laloubie of No. 25 Bath Avenue, Dublin 4. The appeal was submitted on behalf of the appellant by Hughes Planning and Development Consultants. The grounds of appeal argue that:

- The proposed development contravenes the Z1 zoning objective which seeks to protect, provide and improve residential amenities.
- The current proposal before the Board seeks to alter the opening hours and also seeks to remove the awning structure to the front of the property and replace the fascia signage. It is stated that these items are not mentioned in the statutory notices and therefore should be considered an invalid application as the public are not adequately informed of the full extent of the proposal.
- It is stated that every weekend the restaurant serves alcohol after opening hours which causes a substantial amount of noise and disturbance to the appellants.
- The proposal exacerbates traffic and parking problems in the area.
- No information has been provided by the applicant in respect of waste storage facilities. It is stated that there is an extractor fan to the rear of the property and this fan is regularly left on at night causing a continuous whining sound which causes serious disturbance to residents of neighbouring properties.
- Section 14.7 of the development plan relates to transitional zones. It is noted that it is necessary to avoid developments that would be detrimental to the amenities of more environmentally sensitive zones. The provision of a restaurant abutting residential development causes a substantial amount of noise and is therefore detrimental to the amenity of an environmentally sensitive area.
- Reference is made to policies in the development plan in respect of street furniture and is argued that the awning as constructed has a serious

detrimental visual impact along Bath Avenue. It also has an adverse impact on the character of the streetscape.

- It is suggested that the restaurant has operated outside the hours permitted under Condition No. 3 of the original grant of permission (PL29S.242244). The proposal results in a negative visual impact due to the provision of an outdoor seating area and canopy and also the inappropriate sign above the shop. Dublin City Council's shopfront design guidelines require individual letters and do not accept box signs. It is considered that the signage details submitted with the application are inadequate.
- In terms of noise the planning inspector in assessing PL29S.248262 did not consider that the use adequately protects the amenity of adjoining residential properties due to excessive noise levels. It is noted that there are several extractor fans on the application site. And the impact of these extract fans are unacceptable.
- Numerous photographs are attached to the grounds of appeal indicating the extractor fan and photographs are also submitted which indicate that people have on numerous occasions dined and drank outside the canopy area.
- In terms of odours, it is stated that on several occasions the smell of food originating from the restaurant is completely intolerable and has a serious detrimental impact on the amenity of adjoining neighbours.
- It is stated that waste cooking oil has previously been left out at night with no covering and this attracts rodents and vermin. It is suggested that this is a serious health and safety hazard for all residents in the vicinity. It is stated that liquid has seeped into the appellant's property from the restaurant. It is also stated that there are in excess number of bins associated with the restaurant to the rear of the site.
- References to precedents in the planning report submitted with the application should not be considered by the Board as it is argued for a variety of reasons that the precedents referred to are not similar to the current application in any way. It is suggested that many of the precedents referred to do not adjoin residential properties.

- It is argued that there are a number of discrepancies with the application as the drawings submitted did not indicate the awning to the front of the property.
- It is also stated that the application is for a retention of permission however the planning application form indicates that the application is for permission.
- It is also misleading to suggest that the opening hours would be reduced as the website indicates that currently during weekdays the premises operates from 11 a.m. to 9 p.m. Permitting the opening from 10 a.m. to 9 p.m. would actually increase the hours of operation as opposed to decreasing the hours.
- It is also noted that the restaurant currently caters for take-away foods through the service “Deliveroo”. Condition No. 8 of PL29S.242244 required that no take-away of hot food is permitted unless authorised by a further grant of planning permission.

6.2. For the above reasons it is requested that An Bord Pleanála refuse to grant planning permission for the proposed development.

7.0 Appeal Responses

7.1. A response from the applicant was received outside the appropriate period and was therefore returned to the appellant.

7.2. It appears that Dublin City Council have not submitted a response to the grounds of appeal.

8.0 Development Plan Provision

8.1. Dublin City Development Plan 2016-2022

The subject site is zoned as Z1 where it is an objective *“To protect, provide and improve residential amenities”*.

Restaurant is open for consideration under the Z1 zoning objective.

Section 9.5.8 Noise Pollution

Minimise the impact of noise pollution by controlling developments which are noise sensitive away from more sensitive areas such as residential areas. If it is likely to

create disturbance due to noise, a condition can be imposed limiting the hours of operation and level of noise generation.

Section 14.7 Transitional Zone Areas

- It is important to avoid abrupt transitions in scale and use zone permitted in each zone
- It is necessary to avoid developments that would be detrimental to the amenities of more environmental sensitive zones
- In zones abutting predominantly mixed-use zones, particular attention should be paid to use, scale, density and design of proposal and to landscaping and screening proposals in order to protect the amenities of residential properties.

Section 16.29 Restaurants

The positive contribution of café and restaurant uses and the clusters of such uses to the vitality of the city is recognised.

In considering applications for restaurants, the following will be taken into consideration:

- The effect of noise, general disturbance, hours of operation and fumes on the amenities of the nearby residents.
- Traffic considerations
- Waste storage facilities
- The need to safeguard the vitality and viability of shopping areas in the city to maintain a suitable mix of retail uses.

Dublin City Council's Shopfront Design Guidelines.

- Fascia signage: Only the name and street number of the shop should be on the fascia panel. Box signs are unacceptable and individually mounted letters are appropriate and should not be greater than 40cm. Illumination shall be discreet.
- Security Shutters: Roller shutters shall be located behind the window display.

8.2. Natural Heritage Designations

The site is located 1.2km from the edge of South Dublin Bay and River Tolka Estuary SPA and the South Dublin Bay SAC.

9.0 Planning Assessment

I have read the entire contents of the file, have had particular regard to the issues raised in the grounds of appeal and visited the site and its surroundings. I consider the pertinent issues in determining the current application and appeal before the Board are as follows:

- Principle of Development
- Impact on Amenity
- Other Issues

These issues are dealt with under separate headings set out below.

9.1. Principle of Development

The subject site is located in an area zoned Z1 which caters for primarily residential development. Notwithstanding this, restaurant/café use is open for consideration under the land use zoning objective and therefore should be considered on its merits and in accordance with the proper planning and sustainable development of the area. I note that the Board previously granted planning permission albeit for three years (2013 under Reg. Ref. PL9S.242244). While the Board subsequently refused a continuation of restaurant use on the subject site I do note however that the planning inspector's report in relation to same stated that "*I have no objection to the principle of the use of the site as a restaurant subject to complying with other planning requirements*". I note that the applicants in this instance have incorporated some material alterations which are specifically aimed at addressing concerns raised in the Board's most recent decision and I consider that the proposal currently before the Board should be assessed in this light.

9.2. Impact on Amenity

- 9.2.1. The grounds of appeal consistently highlighted concerns in respect of noise emissions emanating from the restaurant. The appeal reasonably argues in my view

that the level of noise generated by the proposed development is having a significant and adverse impact on amenity on the surrounding area which is predominantly residential. I noted that a noise report was commissioned and carried out on behalf of the applicant in respect of previous applications and this noise report, carried out by Fitz Scientific, is contained on file. This environmental noise monitoring report carried out noise monitoring to the front and rear of the premises. The survey undertaken noted elevated noise levels above the daytime limit of 55 dB(A) and also in the evening time after 2000 hours. Much of this noise generation was attributed to off-site noises including vehicular traffic, car parking and trains passing nearby. While the L_{Aeq} levels exceeded both the daytime and evening time limits set out by the EPA the noise levels recorded, the levels recorded were not significantly above the specified limits (55 dB(A) daytime and 45 dB(A) nighttime). The noise survey results indicated L_{Aeq} levels of between 3 and 6 dB(A) above the specified limits and the elevated noise levels were mainly attributed to the site's location in an urban area.

- 9.2.2. Having inspected the site and its surroundings it would appear to be a reasonable conclusion that much of the noise generated on site related to patrons sitting in the outside area of the restaurant particularly in the evening time. The existing canopy would have very modest noise attenuation properties and therefore in my view would contribute significantly to ambient noise levels associated with the restaurant. The omission of the canopy and the outside seating area therefore in my view would significantly reduce noise levels associated with the restaurant. Requiring that all seating and serving arrangements would be restricted to the inside of the existing buildings would result in a significant and material reduction in noise levels as the solid structure of the building would significant contain and attenuate noise levels associated with the restaurant. The omission of the outside seating area and associated canopy would in my view contribute in a material way to the reduction and attenuation of noise associated with the restaurant.
- 9.2.3. Furthermore, restricting the opening hours in the evening time from 10.00 to 9.00 would also have a significant beneficial impact in terms of reducing noise levels. Closing 1 hour early would ensure that patrons would lead the restaurant premises at an earlier time and therefore late night noise activity would not be generated on the subject site. This would be conducive in protecting the residential amenities of

the area. Therefore, the proposed alterations under the current proposal would be appropriate and would in my view significantly contribute to the lowering of noise levels associated with the restaurant use thereby protecting and enhancing the residential amenities of surrounding residences.

- 9.2.4. The grounds of appeal also express significant concerns in relation to odour and vermin together with overflowing rubbish bins etc. It is clear from the planning report that the file in question has been reviewed by the Environmental Health Section and they deemed the proposal to be acceptable subject to a number of conditions. These requirements are set out in Condition No. 3 of the Local Authority's notification to grant planning permission. These include the incorporation of extract fumes using best available technology and the location of the stack emitting fumes to be located in an area which would cause minimum nuisance. This condition also sets out numerous noise abatement measures so as to protect surrounding residential amenities.
- 9.2.5. The reduction in the size of the restaurant by omitting the outdoor seating area should in my view also result in a consequent reduction of waste which would ensure that the proliferation of waste bins and the overfilling of said bins should not occur to the same extent as previously on site. Good practice management and the requirement to comply with various health and safety and food hygiene standards should ensure that odour, litter and other issues do not cause a significant or material impact.
- 9.2.6. Again, I refer the Board to the previous planning inspector's report under PL29S.248262 where it notes that Condition No. 5 of PL29S.242244 included a restriction on odour concentration arising from the kitchen. While it is noted that no details of compliance to this condition are contained on file, it is noted that the location of the extraction system above the eaves of the building would prevent disturbance through odour emissions of adjoining properties. In conclusion therefore, I consider that with good in-house management, issues in relation to odour, litter and waste generation can be adequately addressed by way of condition.
- 9.2.7. With regard to visual amenity, the previous inspector's report noted that the existing restaurant included an outdoor seating area with a forecourt enclosed by plastic canopy and a covered screen. Reference is also made to the large plastic sign which

extends across the façade of the front of the building. Concerns are expressed that this canopy and sign which protrudes forward of the building line has a negative impact on the visual amenities of the area and it is further noted that the signage was contrary to guidance set out in Dublin City Council's Shopfront Design Guidelines. Under the current application it is proposed to remove the outdoor seating area and said canopy in its entirety. It is also proposed to improve the shopfront design associated with the restaurant and I note that Condition No. 10 of the Planning Authority's notification to grant permission require that full details of any signage are to be agreed in writing with the Planning Authority prior the commencement of development.

9.2.8. I consider that concerns reached by An Bord Pleanála in relation to previous application have been successfully overcome in the case of the current application.

9.3. **Other Issues**

9.3.1. The grounds of appeal question the validity of the application on the grounds that:

- (a) It is suggested the application should be for retention of planning permission as opposed to planning permission.
- (b) The application did not adequately describe the nature and extent of the development in that there was no specific references in the public notices to the omission of the outdoor seating area and canopy and the proposed new signage for the restaurant.

9.3.2. In relation to these matters I consider that the appellant makes a valid point in respect of the nature of the permission sought under the current application. It is clear that planning permission was granted for a period of 3 years under PL29S.242244 and that this permission expired in November, 2016. It can be reasonably concluded that since that date the restaurant has been operating as an unauthorised use on the subject site without the benefit of planning permission. To this end it would be more appropriate that an application be lodged for retention of the use occupying the site as opposed to a normal application for planning permission. This in itself does not in my view, constitute reasonable grounds for refusing the application. However, I would consider it appropriate that the Board would consider requesting the applicant to re-advertise and publish new notices

expressly referring to retention of planning permission as opposed to planning permission in the said notices.

- 9.3.3. With regard to the description of the nature and extent of the development, I do not consider it necessary that the applicant be required to list out all the proposed alterations under the current application. What is proposed in this instance is permission for the continuation of a restaurant use at the current location. This is adequately described in the public notices submitted. I do not consider it necessary that new public notices be required specifically referring to the omission of the outdoor seating area and canopy and the new signage. If the Board can decide otherwise it can, of course, request that any new public notices specifically referred to these alterations.

10.0 **Conclusions and Recommendation**

- 10.1. Arising from my assessment above I consider the principle of restaurant use at the subject site is acceptable. Furthermore, I consider that the omission of the outdoor seating and canopy, the reduction in opening hours in the evening time and the creation of new signage would address the Board's concerns highlighted in its decision to refuse the previous application. I further consider that the alterations proposed on the current application would successfully reduce the impact on adjoining residential amenity. The omission of the outdoor seating area and canopy would improve the visual aspects of the proposed development and would perhaps more importantly significantly reduce noise levels associated with the development. The reduction in opening hours and the confinement of all restaurant activities to within the original structure would make the use more compatible with surrounding residential development and as such would not in my view result in an abrupt transition of use between commercial and residential development to the extent where it would significantly or materially impact on residential amenities.
- 10.2. Finally, I note that there has been a number of issues with regard to compliance with previous permissions. Specifically, I refer to the fact that the restaurant has incorporated a take-away element which was not permitted under the parent use (PL29S.242244). Having regard to the on-going compliance and monitoring issues, I would consider it appropriate that the Board would again permit a temporary

permission for 3 years to ensure that effective compliance and effective monitoring of the impact and the proposed development can be assessed and evaluated in 3 years' time to ensure that the proposed use is being undertaken in accordance with the permission granted and that the proposed use is not significantly or adversely impacting on the residential amenities of the area. I therefore recommend that An Bord Pleanála uphold the decision of the Planning Authority and grant planning permission for the restaurant use for a further 3 years.

11.0 Decision

Grant planning permission in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

12.0 Reasons and Considerations

Having regard to the provisions of the Dublin City Development Plan including the Z1 zoning objective for the areas where restaurants are open for consideration and subject to compliance with conditions set out below, it is considered that the proposed development would not be unduly injurious to the visual or residential amenities of the area or of surrounding properties and would therefore be in accordance with the proper planning and sustainable development of the area.

13.0 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 the 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. The use of these premises as a restaurant shall cease within three years of the date of this order unless authorised by another further grant of planning permission.

Reason: To enable the effect of the development on the residential amenities of property in the vicinity to be reviewed having regard to the close proximity of residential dwellings.

3. The existing outdoor seating area and associated canopy shall be removed from the premises within one month of the date of this order.

Reason: In the interest of visual and residential amenity.

4. The restaurant shall not operate between the hours of 9 p.m. and 10 a.m. on any days and all customers shall be off the premises by 10 p.m.

Reason: To protect residential amenity.

5. No handling of refuse including bottles outside of the internal floorspace of the restaurant may take place between 9 p.m. and 10 a.m. on any day.

Reason: In the interest of residential amenity.

6. No advertising, menu sandwich boards, or similar displays shall be erected or installed on this site or in the public realm in the vicinity of the site.

Reason: In the interest of the visual amenities of the area.

7. The following environmental health requirements shall be complied with.

- (i) Extract fumes shall be minimised and if necessary treated using best available technology. The stack emitting fumes shall be positioned in an area for which the emissions will cause minimum nuisance. The fan installed to propel the extract shall be of sufficient power to ensure high exit velocity of fumes during all weather conditions.

- (ii) The noise level emanating from the premises shall not exceed 55dB(A) (corrected for any tonal or impulsive components) and the boundaries of residential property in the vicinity between 0800 and 2000 hours on any day and shall not exceed 45dB(A) at any other time. Procedures for the purposes of determining compliance with

this limit shall be submitted to, and agreed in writing with the planning authority within one month of the date of this order.

Reason: To protect the amenities of residential property in the vicinity.

- (iii) There shall be no speakers erected externally or directed into external areas.
- (iv) Legible signs shall be visible within and outside the premises alerting the patrons to the site's location within a residential area. Details of such signage shall be agreed in writing with the planning authority within one month of this order.

Reason: To protect the amenities of the area.

8. The odour concentration arising from the proposed facility shall not exceed a $C_{98,1\text{-hour}}$ value of $3 \text{ ou}_E/\text{m}^3$ at the boundaries of residential property in the vicinity. Procedures for the purposes of determining compliance with this limit shall be submitted to and agreed in writing with the planning authority within one month of this order.

Reason: To protect the amenities of residential property in the vicinity.

9. The developer shall submit to the planning authority for written agreement plans and particulars indicating all measures for the control of noise and odour in accordance with the conditions set out above. Such measures shall be implemented to the written satisfaction of the planning authority within one month of the date of this order.

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

10. A detailed landscaping and re-instatement scheme for the front area of the site subsequent to the removal of the canopy and outdoor seating area shall be the subject of written agreement with the planning authority prior to the commencement of development.

Reason: In the interest of residential and visual amenities of the area.

11. No take-away of hot food from the premises is permitted unless authorised by a further grant of planning permission.

Reason: In the interest of protecting the residential amenity of the area.

12. The existing fascia board and signage shall be removed within one month of the date of this order and full details of any proposed external signage shall be agreed in writing with the planning authority within three months of this order.

Reason: In the interest of visual amenity.

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

Reason: To ensure adequate servicing of the development and prevent pollution.

14. A plan containing details of the management of waste and recyclable materials within the subject site, including the provision of facilities for the storage, separation and collection of waste and recyclable materials shall be submitted to and agreed in writing with the planning authority within one month 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 recyclable materials, in the interest of protecting the environment and in the interest of the residential amenities of property in the vicinity.

15. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Paul Caprani,
Senior Planning Inspector.

2nd May, 2018.