



An  
Bord  
Pleanála

## Inspector's Report

**ABP-302173-18**

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<b>Development</b>	Permission for the placing of an external seating area and planters.
<b>Location</b>	The Bottle Tower licensed premises at the junction of Beaumont Avenue and Churchtown Road Upper.
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D18A/0159
<b>Applicant(s)</b>	Darjan Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	To Refuse Permission
<b>Type of Appeal</b>	First Party v. Decision
<b>Appellant(s)</b>	Darjan Ltd.
<b>Observer(s)</b>	Jill Lee David Coolican Hilary Haydon Martin and Valerie Plant John Lee
<b>Date of Site Inspection</b>	12.10.2018
<b>Inspector</b>	Erika Casey

## 1.0 Site Location and Description

1.1 The proposed development is located at the Bottle Tower Pub, a two storey licensed premises located at the junction of Beaumont Avenue and Churchtown Road Upper. There is a customer car park located on the northern side of the site adjacent to the public road and footpath.

## 2.0 Proposed Development

2.1 The proposed development comprises the creation of an external seating area with planters at ground level in the car park of the Bottle Tower Pub for a temporary period of three years. The seating area has an area of 82 sq. metres.

2.2 It is stated in the application documentation that the purpose of the seating area is to increase food trade and improve the elevation of the pub presented to Churchtown Road Upper.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1 To Refuse Permission for the following reason:

*“The proposed external seating area is located within an existing car park serving the subject premises. The proposed reduction in the number of car parking spaces and the design of the off street car parking arrangement would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise and would, by itself or by the precedent for which the grant of permission would set for further similar development, adversely affect the use of the existing road and be contrary to the proper planning and sustainable development of the area.”*

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Report (11.04.2018 and 28.06.2018)

- The provision of the planters would improve what is not currently a particularly attractive elevation.
- The site is an established public house and is zoned for commercial activity. External seating is a reasonable ancillary feature. The development is acceptable in principle.

- Concurs with the concerns of the Transportation Section regarding the reduction in car parking spaces and subsequent car parking area.

### 3.2.2. **Other Technical Reports**

**Transportation Planning (28.03.2018 and 25.06.2018):** Notes that the proposed external seating area will encroach into the existing off street car park for the Bottle Tower Pub and result in a reduction from 14 no. spaces to 6 no. spaces, some of which will not be accessible. The reduction in off street car spaces could result in overspill parking with consequent disturbance in neighbouring residential area. Recommends refusal.

**Environmental Health Officer (14.03.2018):** No objection.

**Drainage Report (14.04.2018):** No objection.

### 3.3. **Prescribed Bodies**

- No submissions received.

### 3.4. **Third Party Observations**

3.4.1 A number of observations were made on the application by third parties. The issues raised primarily related to potential impacts on residential amenities, noise intrusion and loss of car parking/traffic hazard. The issues raised are similar to those made in the observations submitted on the first party appeal and are addressed further in Section 6.3 below.

## 4.0 **Planning History**

4.1 Planning history includes the following applications:

### **Planning Authority Reference D06A/0970**

4.2 Retention permission granted in August 2006 for a flat polycarbonate roof structure and timber screen walls and part glazed screen enclosing an area of 17.34 sq. m. at first floor level to the rear of the public house.

## **Planning Authority Reference D16A/0862**

4.3 Retention Permission granted in January 2017 for a wooden enclosure to mechanical plant at roof level and a safety guard at the perimeter of the roof over the first floor.

4.4 A previous application – **Planning Authority Reference D16A/0140** for a single storey extension to lounge and external deck area and provision of a preparation kitchen at first floor level to the rear was withdrawn.

## **5.0 Policy Context**

### **5.1. Development Plan**

5.1.1 The operative Development Plan is the Dun Laoghaire County Development Plan 2016 – 2022. The site is zoned NC: *To protect, provide for and/or improve mixed use neighbourhood centre facilities.*

5.1.2 Table 8.2.4 sets out car parking standards for non residential use. The maximum car parking standards for bars is 1 space per 20 sq. metres.

### **5.2. Natural Heritage Designations**

5.2.1 The nearest Natura 2000 sites are the South Dublin Bay and River Tolka Estuary SPA and the South Dublin Bay SAC located c 4km to the north east of the site.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- State that the Bottle Tower Public House was constructed in the 1960's and that no provision or allowance for car parking was designed for the premises at the time of construction. The use of this part of the site for private parking has been at the discretion of the owners. There is no requirement for this long established licensed premises to provide off street parking. The premises is exempt from any requirements of table 8.2.4 of the Dun Laoghaire Rathdown County Development Plan 2016-2022.
- The proposed new entrance piers and spayed walls help better define the entrance and exit from the car park. The application has addressed this deficiency. The new arrangement also discourages vehicles from cutting across the site.

- Note that the opening hours of the public house are primarily in the evening. Only 1 carparking space is required by staff with the rest of the staff travelling to the premises by public transport. The area is well served by public transport including Dublin Bus and the Luas and easily accessible by taxi.
- The existing entrance to the Bottle Tower pre dates changes made to the surrounding road network and, therefore, cannot be a contributing factor to any negative impact on the existing road network.
- The Local Authority have failed to demonstrate that a reduction in car parking spaces at the applicant site will adversely affect the use of the existing road. A reduction in vehicular traffic in and out of the premises would be of benefit to the local road network. There are existing public car parking facilities along Beaumont Road.
- It is unreasonable to hold the applicant responsible for the type and size of vehicles used for deliveries in this suburban setting.

## 6.2. Planning Authority Response

6.2.1 It is considered that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

## 6.3. Observations

6.3.1 4 observations on the appeal were made by **John Lee, Upper Churchtown Road, Martin and Valerie Plant, Aghadoe, Upper Churchtown Road, Hilary Haydon, Upper Churchtown Road, David Coolican, Dunluce, Upper Churchtown Road and Jill Lee, 123 Upper Churchtown Road**. Issues raised overlap and can be summarised as follows:

- Concerns regarding potential reduction in existing car parking area from a health and safety perspective.
- The reduction in car parking provision would result in unacceptable overspill car parking to the surrounding residential area. Existing car parking provision does not comply with the Development Plan standards. The reduced provision would mean the development would be well below the standards set out in the Development Plan.

- Consider that proposed access inhibits deliveries by heavy goods vehicles with consequent traffic hazards as vehicles will have to reverse from the car park onto the main road. The reduction of the car park area as proposed will totally eliminate the ability of delivery vans to turn within the car park.
- Consider that the new splayed entrance is inadequate and no details provided regarding boundary treatment along the Upper Churchtown Road.
- Object to potential impacts on residential amenity of nearby properties from elevated noise levels, lighting, overlooking, loss of privacy etc. Consider this will be exacerbated by the proposed new entrance from the public house. Consider that the seating area will be used late in the evening with consequent anti-social impacts.
- Note that a similar unauthorised development of a pop up bar and outdoor area that was erected in 2017 and since been removed, caused considerable nuisance and disturbance to adjacent dwellings when it operated.
- State that the public house has undergone substantial renovation in recent times which has significantly increased its seating and dining capacity. Consider that the development will be visually obtrusive.
- Refer to condition attached to a previous permission granted in 2006 – Planning Authority Reference D06A/0970 which stated that the single storey roof outside of the proposed enclosed development shall not be used as an open area for customer use in order to protect residential amenity.

## 7.0 **Assessment**

7.1. The main issues in this appeal are those raised in the grounds of the appeal and observations and it is considered that no other substantive issues arise. Appropriate Assessment and EIA screening also needs to be addressed. The issues can be dealt with under the following headings:

- Traffic, Access and Parking
- Impact on Residential Amenity
- Appropriate Assessment
- EIA Screening

## **7.2 Traffic, Access and Parking**

- 7.2.1 The principal reason for refusal relates to traffic and parking matters. Car parking provision to serve the pub is currently located in a surface car park to the north which accommodates c. 14 no. spaces. Further diagonal parking is located to the west of the site along the Beaumont Road. The proposed seating area will result in the removal of a number of spaces in the northern surface car park leaving approximately 6 no. car parking spaces to serve the pub in this area.
- 7.2.2 It is set out by the applicant that as the pub was constructed in the 1960's, there was no requirement to provide car parking and that the provision of same has been at the discretion of the owners. It is stated that the provisions of the Development Plan regarding car parking standards are not relevant. It is also detailed that the site is well served in terms of public transport.
- 7.2.3 Whilst, I note the public house has existed on the site for a significant period of time, the existing parking provision nonetheless has become established and in my view an integral part of the existing development on the site. I accept that the pub is located in a suburban area well served by public transport and in this context, some relaxation on the parking standards set out in the Development Plan may be appropriate. However, the development will result in a significant loss of existing off street parking serving the development, and having regard to the location of the site, this may have consequential negative impacts to surrounding residential streets as a result of overspill parking.
- 7.2.4 More problematic however, is the constraints that the new layout would have in terms of deliveries to the public house. I am not satisfied that the applicant has provided adequate information to address this issue in either the Further Information response submitted or their first party appeal. Whilst it is noted that there are constraints with serving existing suburban sites such as this, the proposed layout in my view would exacerbate this. There is likely to be inadequate turning room within the site as a result of the development meaning that vehicles would have to reverse out of the new entrance across the public footpath and cycle path. This would potentially have consequential negative impacts in terms of traffic, pedestrian and cycle safety. It was observed during the site visit that service vehicles such as waste disposal trucks currently use the car park as a turning area when not in use.

7.2.5 In conclusion, I am not satisfied that the reduction in car parking that would result as a consequence of the development would not have an adverse impact in terms of overspill parking to the surrounding road network and on the ability of delivery vehicles to satisfactorily service the site.

### **7.3 Impact on Residential Amenity**

7.3.1 The proposed development comprises an outdoor seating area to serve the existing Bottle Tower Licenced facility. The seating area is located to the north of the existing public house and has a stated area of 82 sq. metres. The site layout plan submitted with the application indicates that it will have seating capacity for c. 36 people. It is stated in the application documentation that the purpose of the seating area is to enable the pub to extend its food offering and presumably provide additional seating to accommodate alfresco dining and drinking.

7.3.2 As noted by the Planning Authority, the public house is located in an area zoned neighbourhood centre and forms the end of a parade of retail and commercial units. Notwithstanding this, it is noted that the public house is located in close proximity to a number of residential properties including those on Churchtown Road Upper to the north. The proposed outdoor seating area will be located c. 8.8 metres from the boundary of the nearest dwelling to the north.

7.3.3 Whilst I note the Planning Authority's assessment that such seating areas are a reasonable and common ancillary feature of public houses and are acceptable in principle, I consider that regard must also be had to the suburban location of the subject site and its proximity to existing dwellings. In this regard, I would have significant concerns regarding the potential for the outdoor seating area to cause a level of disamenity to existing dwellings in the vicinity from late night noise resulting in disturbance and loss of privacy to these residents.

7.3.4 It is noted from the documentation submitted by the observers that the opening hours of the public house extend into the late evening, particularly on Friday and Saturday when the public house opens until 1.30am. I consider that significant additional noise could be generated by 36 patrons using this constrained seating area with little acoustic mitigation, bar some planters. In conclusion, I am not satisfied that the development would not result in a significant adverse impact to existing residential properties in the vicinity. Should the Board be minded to grant



permission for the development, I would recommend the imposition of a condition restricting the hours of use of the outdoor seating area.

#### **7.4 Appropriate Assessment**

7.4.1 Having regard to the nature and scale of the proposed development, an outdoor seating area serving an existing public house within an established urban area, and the distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

#### **7.5 EIA Screening**

7.5.1 Having regard to nature of the development comprising an outdoor seating area serving an existing public house and the urban location of the site there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

#### **8.0 Recommendation**

8.1 It is recommended that permission be refused for the reasons set out below.

#### **9.0 Reasons and Considerations**

1. The proposed external seating area, located within the existing car parking serving the licensed premises would result in a significant reduction in the quantum of car parking serving the development. It is considered that the resulting car parking provision for the proposed development and, in particular the lack of sufficient on-site car parking spaces and loading/unloading areas, would be seriously deficient and would be inadequate to cater for the parking demand and delivery requirements generated by the proposed development, thereby leading to conditions which would be prejudicial to public safety by reason of traffic hazard on the public roads in the vicinity. The development would likely result in overspill car parking to surrounding residential streets with consequent negative impacts to residential amenity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development due to its size and location and intended hours of operation and use would result in significant adverse impacts to the residential amenities of adjacent residential properties due to noise intrusion and loss of privacy. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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**Erika Casey**

**Senior Planning Inspector**

**15th October 2018**