



An
Bord
Pleanála

Inspector's Report ABP 309690-21

Development	Change of use to roof garden and smoking terrace.
Location	Nos. 1-3 The Green, Malahide, Co Dublin, K36 K296.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F21A/0009
Applicant(s)	Siam Thai Restaurant Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Siam Thai Restaurant Ltd.
Observer(s)	Townyard House Management Company Residents and Occupiers of Townyard House Elizabeth Dolan Andrew Slattery

Date of Site Inspection

10th August 2021

Inspector

Brendan Coyne

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1.0 Site Location and Description

1.1. The site (1.02 ha) is located at Unit Nos. 1-3 The Green, Malahide, Co. Dublin. The premises is a four storey over basement building, in use as a restaurant known as 'Siam Thai' at ground and first floor level, office use at second floor level and residential use at third floor level. The basement provides an underground car park with access / egress via The Green. The building is contemporary in design with the third floor recessed behind both the front and rear main building lines of the premises. The building is setback c. 9m from the public footpath with canopied external dining areas to its front. An enclosed gated yard and separate bin yard is provided to the rear of the premises at ground floor level and an open roof-top terrace is provided to the rear of the premises at first floor level over a single storey extension, along its western side. The roof terrace is enclosed with rendered and capped concrete block walls, c. 1.9m in height and a tall steel flue vent is located along its western side. The adjoining property to the west comprises a two storey building used ancillary to Donnybrook Fair, a supermarket and restaurant which fronts onto both The Green and New St. The adjoining property to the east comprises a three storey apartment block known as 'Townyard House'. A laneway from New St. provides access to the yard to the rear of the premises and serves a number of other adjacent properties including a row of 3 no. cottages known as 'Ross Cottages', the rear of public houses known as 'Gilbert & Wright' and 'Gibneys', 'El Sorriso' restaurant and a property known as 'The Old Coach House'. Directly opposite, to the north of the site is a green area of public open space.

2.0 Proposed Development

- 2.1. Permission sought for the following (as described in public notices);
- Change of use of the existing first floor level flat roof over kitchen to a landscaped roof garden and smoking terrace (83.3 sq.m), with a lobby and access door from the existing first floor restaurant,
 - Works to include perimeter planting and all associated ancillary works.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Fingal County Council REFUSED permission for the proposed development. The reason for refusal was as follows;

1. It is considered to permit the proposed development at this location would seriously injure the amenities of property in the vicinity in terms of increased noise levels, overlooking and overbearance and as such the proposed development would not be consistent with the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Report

Basis for the Planning Authority's decision. Includes:

- The proposed first floor terrace to the rear of the Siam Thai Restaurant is an acceptable form of development within the 'TC- Town Centre' zoning objective of to the site.
- The site shares its eastern and southern boundaries with residential properties.
- Elevation drawings submitted do not clearly indicate the treatment of the eastern elevation of the proposal.
- The Planning Authority received a number of objections expressing concerns regarding the proposed development.
- The Planning Authority has significant concerns regarding the impact the proposal on the residential amenity of the surrounding area.
- While the subject site is zoned 'TC-Town Centre', the subject site is surrounded by residential development.
- While it is acknowledged that urban living within developments in Town Centre locations are subject to increased noise levels conducive to town centre uses, in this instance Malahide is unique in terms of the high level of residential units located within the village area.

- The residential use within the village area is considered to be environmentally sensitive and must be afforded protection.
- The Environmental Health Officer (Air and Noise Unit) express serious concerns and recommend the proposed development be refused permission.
- Notwithstanding the 'TC-Town Centre' zoning objective of the site, the proposed development at this location would give rise to a significant negative impact upon the residential amenity of neighbouring properties in terms of increased noise levels, overlooking and overbearance. On this basis, it is recommended that permission be refused.
- No Appropriate Assessment issues arise.

3.2.2. Other Technical Reports

Environmental Health Officer (Air & Noise Unit)

- Due to the proximity of neighbouring residential apartments and cottages, permission for the proposed development is not recommended.
- The addition of an external area at this location would increase noise levels which would have an adverse effect on neighboring residents.

Conservation Officer Section

- No objections.

Parks and Green Infrastructure Division

- No objections.

Water Services Department

- No objection subject to standard conditions.

4.0 Planning History

Subject Site

P.A. Ref. F20A/0109 - Permission GRANTED in July 2020 for modifications to the previously approved kitchen extension permitted under P.A. Ref. F19A/0487, to

provide for revised car parking facilities to the rear - total number 15 spaces at No. 11-3 The Green, Malahide, Co. Dublin for Siam Thai Restaurant Ltd.

P.A. Ref. F19A/0487 - Permission GRANTED in January 2020 for a single storey extension to the rear of the existing restaurant, Siam Thai (24 sq. m), at 1-3 The Green, Malahide, Co. Dublin for Siam Thai Restaurant Ltd.

P.A. Ref. F18A/0447 & ABP Ref. ABP-303067-18 Permission GRANTED ON APPEAL in May 2019 for (a) the change of use of 140sq.m at first floor level from office accommodation to previously approved restaurant use, and minor internal revisions, (b) the removal of internal stud partitions and reinstatement of the connecting staircase from ground to first floor, (c) the retention of occasional and seasonal placing of tables and chairs ancillary to the restaurant on the front forecourt of the premises at No. 1-3 The Green Malahide, Co. Dublin for Siam Thai Restaurant Ltd.

F05A/1784 & ABP Ref. PL 06F.2164631 Permission REFUSED ON APPEAL in Sept. 2006 for the retention of two canopy structures to front of Danielli bar and restaurant.

P.A. Ref. F05A/1462 & ABP Ref. PL06F.215813. Permission REFUSED ON APPEAL in June 2006 for the retention of staff and storage facilities, including keg storage (179 sq m) at basement level, and application for permission for development consisting of the provision of an additional 5 parking spaces to the rear through the provision of 7 no. car lifts giving a total of 19 spaces to the rear of the property.

P.A. Ref. F04A/0484 & ABP Ref. PL06F.207734 - Permission REFUSED ON APPEAL in Nov. 2004 for staff and storage facilities and amended car parking arrangement. The development consists of 59 sq.m. of keg storage and 120 sq.m. of staff facilities at basement level, 6 car parking spaces to the front and 19 car parking spaces in a managed parking facility at basement level.

P.A. Ref. F03A/0882 - Permission GRANTED in Oct. 2003 for the retention of change of use at first floor level from restaurant to office use and minor alterations to front and rear elevations. The development will consist of the retention of the change of use of 140sq. m. at first floor level from restaurant to office use. Minor revisions to the front elevation consist of partial removal of timber panelling at first floor level and consequent enlargement of window on front elevation and facility for opening of

window. Revisions to windows to first floor on rear elevation to allow for opening sections and replacement of opaque sections with clear glass.

P.A. Ref. F02A/0101 & ABP Ref. PL 06F.129534 (as detailed on Planning Authority database) - Planning permission GRANTED and REFUSED ON APPEAL (split decision) at Nos. 1,2 & 3 The Green, Malahide, Co. Dublin for: a) Proposed licenced Public House which will include change of use of first floor to Public House including retention of extended area (18 sq.m.), retaining existing restaurant/dining facilities previously granted under planning Reg. F99N0300) b) Lounge bar and kitchen facilities at ground floor level previously granted by An Bord Pleanála Ref. PL06F.124926),c) Car parking previously granted under F99N0300 and retention of staff and storage facilities including keg store at basement level and d) Retention of omission of first floor balcony at rear of premises.

P.A. Ref. F01A/0224 & ABP Ref. PL.06F.124926 (as detailed on Planning Authority database) - Permission GRANTED ON APPEAL for alterations to previously approved restaurant/office/ residential development (Reg. Ref. F99N0300) situated at nos. 1, 2 & 3 The Green, Malahide, Co. Dublin including a) realignment of external kitchen wall resulting in a minor addition to floor area; b) ESB substation and switch room; c) change of use of ground floor from restaurant to public house.

P.A. Ref. F99A/0300 Permission GRANTED in Sept. 1999 for (i) demolition of 3 no. existing two storey dwellings and 3 no sheds. Erection of (ii) ground floor: Two-storey restaurant and one storey return at rear of site (restaurant), (iii) second floor: 4 no. office spaces, (iv) **attic roof level:2 no. two bed single storey penthouse apartments.** and: (v) construction of a twenty seven space underground car park with entry from Strand Street. (vi) ground level: fourteen space car park spaces at rear of site with entry from rear laneway (Day-time use only), and four space car park at front of site with entry from Strand Street and bounded to the rear by laneway for Siam Thai Restaurant, at 1 -3 The Green, Malahide.

5.0 Policy and Context

5.1. Development Plan

5.1.1. Fingal County Development Plan 2017-2023 is the statutory plan for the area. The following provisions are considered relevant:

Zoning: The site is zoned 'TC - Town and District Centre' with the Objective to 'Protect and enhance the special physical and social character of town and district centres and provide and/ or improve urban facilities'. (Map No. 9).

Land Use Zoning Objectives - Chapter 11

Objective PM06 Protect the primacy and maintain the future viability of the existing major towns in the County and develop them with an appropriate mix of commercial, recreational, civic, cultural, leisure, tourism and residential uses.

Objective MALAHIDE 3 Retain the existing centre with its mixed use and varied architectural character as the heart and focal point of Malahide.

Architectural Conservation Area The site is located within the Malahide Historic Core Architectural Conservation Area (Table 10.1).

Objective DMS157 Ensure that any new development or alteration of a building within or adjoining an ACA positively enhances the character of the area and is appropriate in terms of the proposed design, including: scale, mass, height, proportions, density, layout, materials, plot ratio, and building lines.

Objective DMS158 All planning applications for works in an Architectural Conservation Area shall have regard to the information outlined in Table 12.11.

Table 12.11 - Direction for Proposed Development within Architectural Conservation Areas.

Objective NP03 Require all developments to be designed and operated in a manner that will minimise and contain noise levels.

Objective NP04 Ensure that future developments are designed and constructed to minimise noise disturbance and take into account the multi-functional uses of streets including movement and recreation as detailed in the Urban Design Manual (2009) and the Design Manual for Urban Roads and Streets (2013).

Development Management Standard– Chapter 12

Objective DMS04 Assess planning applications for change of uses in all urban and village centres on their positive contribution to diversification of the area together with their cumulative effects on traffic, heritage, environment, parking and local residential amenity.

5.2. Natural Heritage Designations

The site is located c. 85m to the south-west of the Malahide Estuary SPA (Site Code: 004025) and c. 123m to the south-west of the Malahide Estuary SAC (Site Code: 000205).

5.3. EIA Screening

Notwithstanding the proximity of the proposed development to the Malahide Estuary SPA and SAC, the nature and small scale of the proposed development would not result in a real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A first-party appeal was received from J.G. Planning and Development Consultants representing the applicant Siam Thai Restaurant Ltd., against the decision made by the Planning Authority to refuse permission for the proposed development.

The following is a summary of the grounds of appeal.

- The site is located in the mixed commercial core of Malahide village.
- There is an anomaly in the Council's Planning Report whereby it is wrongly stated that the site is surrounded by residential development in the form of apartment units. A location map submitted with the appeal clearly shows this not to be the case.

- To the immediate west of the site is the extensive Donnybrook Fair retail and restaurant complex, and to the immediate south is the Gilbert & Wright public house, El Sorriso restaurant and staff apartment.
- A stand-alone office commercial building and bottle store exists in Ross Terrace and to the east of the site is a section of the Townyard Lane apartment development.
- The applicants are concerned that cognisance was not taken by the Planning Authority of the analysis of the proposed development as contained in the Planning Statement submitted with the application.
- The Planning Statement highlighted the 'before' and 'after' condition and use of the subject roof area.
- Due to advances in modern day ventilation and air conditioning technology, it was possible to remove a substantial amount of gas refrigeration, air extractors, ventilation service ducting and plant and machinery from the roof area (photos attached). The applicants consider this a planning and environmental gain for the area.
- The applicants identify another anomaly in the Council's Planning Report whereby the site does not share its eastern and southern boundaries with residential properties.
- The southern boundary of the site immediately adjoins Ross Terrace and the licensed premises of Gilbert & Wright public house, EL Sorriso restaurant and a residential attic unit.
- Rendered and capped concrete block walls, 1.93m in height, exist on all sides of the roof area.
- On the western boundary, the Donnybrook Fair building is c. 5m in height.
- The 1.93m high walls will ensure no overclocking occurs, as alleged, and that any perceived noise will be contained within the existing walls and be minimal when compared to the plant and machinery removed from this area.
- Regrettably due to COVID-19 restrictions no on-site inspection took place which would have allowed the Planning Authority to record the physical features of the

roof garden area, noting the existence of the concrete block walls which serve to contain sound levels to avoid the risk of noise disturbance to surrounding properties and to eliminate any overlooking of adjoining properties.

- The applicants put forward that had the Council's Planning Officer an opportunity to attend on-site they would have confirmed that no direct overlooking of any residential properties, as alleged, would occur or that any serious injury to amenities or property in the vicinity would result due to the existence of the 1.93m high concrete block walls that surrounds the roof terrace.
- The roof terrace has a separation distance of 20-24m from Ross Cottages and c. 40m from the apartments located on Townyard Lane.
- It is proposed that the landscaped roof garden and sun terrace will open only during normal restaurant trading hours for customer use only.
- The proposed roof garden is not intended as an intensification of use of the existing restaurant premises.
- The proposed roof garden is intended primarily to facilitate better social distancing due to COVID-19 related regulations and public health distancing guidelines.
- The proposed development will be a positive contribution to Malahide given the current deficit of quality outdoor space within the central core of the village.
- With the introduction of COVID-19 related restrictions on indoor eating, the demand from the government and general public for better quality outdoor facilities continues to increase.
- It is intended that the roof garden will provide a south facing rooftop space to accommodate patrons of the restaurant with enhanced high level outdoor facilities to include and improve social distancing between customers.
- The COVID-19 pandemic related restrictions have led to a significant disruption to this sector of the economy.
- In order to comply with government health guidelines, serious additional investment is required to upgrade premises and work practices which otherwise may ultimately threaten the very viability of the restaurant sector.

- In order to satisfy customer demand, facilities must be upgraded to survive whilst maintaining and maximising local employment levels.
- The area is proposed as a private passive recreational garden for patrons of the restaurant to enjoy.
- It can only be accessed from the 1st floor dining area and will significantly contribute to and assist in maintaining social distancing and air circulation in compliance with COVID-19 regulations.
- No dispensing will take place on the roof garden area.
- No outdoor music or amplification whatsoever would be permitted within this space and a condition to this effect would be acceptable in the event of permission being granted by An Bord Pleanála.
- Should the Board deem necessary, a rolled back canopy can be fitted over this area or portion thereof to eliminate any perceived noise levels during normal business hours.
- The Board will be aware of other similar approved outdoor roof garden areas in Swords and Malahide including development permitted under ABP Ref. PL06F.246483 which included a dispensing bar, TV and music facilities, all of which are omitted from the subject site.
- In the case above, a similar 3rd party planning objection and appeal was lodged by the same objectors but was rejected by the Board. In its decision to grant permission, the Board recognised the dual function of the village in the County Development Plan objectives.
- The applicants are satisfied that the proposed development is in accordance with the zoning objective and vision for the area and is in keeping with the pattern of development in the vicinity.

6.1.2. Appendices lodged with the appeal include;

- Photographs showing the existing roof terrace, adjacent property, the height of the wall surrounding the roof terrace and 'before' photographs showing roof ventilation and ducts.
- Village Core Map labelling property in the surrounding area.

- Roof Plan of the proposed development.

6.2. Planning Authority Response

The Planning Authority confirms that the proposed development was assessed against the policies and objectives of the Fingal Development Plan 2017 – 2023 and was assessed having regard to its impact on adjoining property and the character of the area. The Planning Authority within their assessment note the location within Malahide Village and the TC-Town Center zoning pertaining to the site. However, the site shares its eastern boundary with an apartment development and its southern boundary with Ross Cottages and, as such, in dealing with development proposals with varying land uses, residential use is considered to be the more environmentally sensitive and must be afforded protection. Having reviewed the grounds of the 1st party appeal, the Planning Authority has no further comment. The Planning Authority requests An Bord Pleanála to uphold its decision and refuse permission. In the event that the appeal is successful, provisions should be made in the determination for applying a financial contribution in accordance with the Council's Section 48 Development Contribution Scheme.

6.3. Observations

6.3.1. Four 3rd party observations were received from the following parties;

- Elizabeth Dolan, No. 2 Ross Cottage, Malahide, Co. Dublin.
- Andrew Slattery, No. 3 Ross Cottage, Malahide, Co. Dublin.
- O'Neill Town Planning Consultants on behalf of Townyard House Management Company, c/o/ Ms N. Burke, Townyard Lane, Malahide, Co. Dublin.
- O'Dwyer & Associates Architects on behalf of the residents and occupiers of Townyard House and Townyard House Management Company.

6.3.2. Issues raised are summarised as follows;

- Overlooking of Ross Cottages and consequent issues of safety and security for the residents of these cottages.
- Noise Nuisance and impact on residential amenity.

- Safety and Security.
- Procedural Issues re. public notices not stating unauthorised development at the site and that contiguous and basement levels drawings were not submitted.
- There is an existing smoking area to the front of the restaurant.

7.0 Assessment

7.1.1. I have reviewed the proposed development and the correspondence on the file. I am satisfied that the proposed development is acceptable in principle, in accordance with the zoning objective of the site. The main issue for consideration is the reason for refusal, as cited by the Planning Authority. This can be addressed under the heading 'Impact on Residential Amenity'. I am satisfied that all other issues were fully addressed by the Planning Authority and that no other substantive issues arise. The issue for consideration is addressed below.

7.2. Impact on Residential Amenity

7.2.1. The Planning Authority refused permission for the proposed development on the grounds that such development would seriously injure the amenities of property in the vicinity in terms of increased noise levels, overlooking and overbearing impact. The applicant contests this reason for refusal, as detailed in Section 6.1 above.

7.2.2. The proposed development provides for the change of use of the existing first floor flat roof over the existing single storey kitchen extension to the rear / south of the Siam Thai Restaurant to a landscaped roof garden and smoking terrace (83.3 sq.m) with a lobby and access door from the existing first floor restaurant. The site is located in the core of Malahide town centre, as detailed on Sheet 9 of the Fingal County Development Plan 2017-2023 and is zoned 'TC - Town and District Centre', with the objective to 'protect and enhance the special physical and social character of town and district centres and provide and/ or improve urban facilities'. Given the existing permitted two storey restaurant on the subject site, I consider that the proposed development would be ancillary to such use and therefore is acceptable in principle, subject to compliance with relevant Development Plan standards and its impact on residential amenity.

- 7.2.3. With regards the issue of noise, Chapter 7 of the Development Plan refers to 'noise pollution' and states that 'when considering applications for new developments or uses likely to increase noise levels and cause an unacceptable degree of disturbance, the Council will seek to contain and minimise noise. This is of particular concern in the urban areas where night-time activities such as public houses, clubs and restaurants and day-time uses such as factories have a significant impact on residential amenity'. Objective NP03 of the Development Plan requires that all developments be designed and operated in a manner that minimise and contain noise levels and Objective NP04 requires that future developments are designed and constructed to minimise noise disturbance and take into account the multi-functional uses of streets.
- 7.3. The closest residential dwellings in proximity to the proposed roof garden include 3 no. cottages known as 'Ross Cottages', located c.13m to the south-east of the site at their closest point and 23 no. apartment within Townyard House, located c. 20m to the east of the site. The applicant also details that there is a staff apartment located within the block immediately to the south, adjoining/ancillary to the Gilbert & Wright public house and El Sorriso restaurant. It is unclear from the documentation submitted if the 4th floor of the subject premises is in residential use. I note however, that 2 no. two bed single storey penthouse apartments were permitted at the subject premises under P.A. Ref. F99A/0300.
- 7.4. Given the town centre location of the proposal, the existence of a late night economy and activity along New Street, The Green and Townyard Lane with nearby public houses, restaurants and take-aways, existing levels of background activity and noise along these streets and existing residential and retail use on adjoining lands, I consider that the proposed development is consistent with Vision of the 'TC – Town Centre' zoning objective of the site which seeks to 'maintain and build on the accessibility, vitality and viability of existing Urban Centres in the County'. Notwithstanding this, I acknowledge the concerns raised in the observations received with regards noise nuisance on nearby neighbouring property and the reason for refusal by the Planning Authority with this regard. I also note however, the precedent for a similar roof garden permitted by the Board under ABP Ref. PL06F.246483 at adjacent property Gibney's Public House at Nos. 5,6 and 7 New Street in Malahide, which backs onto Ross Cottages. Given the proximity of the proposed development to residential development, it is my view that the proposal has the potential to increase noise levels

and cause an unacceptable degree of disturbance to neighbouring residential dwellings, particularly at night-time. I consider however, that the proposed development can be operated in a manner that minimises noise disturbance and contains noise levels to such an extent that it would not adversely impact the residential amenity of neighbouring property. This can be achieved by way of Condition restricting the hours of use of the proposed roof garden and smoking terrace between the hours of 12pm and 9pm daily and requiring that no music or other amplified sound be emitted to the roof garden or broadcast from the premises in such a manner as to cause nuisance to the occupants of nearby properties and that no dispensing of food or drink take place on the roof garden. Such condition would minimise impact on the residential amenity of neighbouring property with regards noise nuisance and disturbance, in accordance with Objectives NP03 and NP04 of the Development Plan.

- 7.5. With regards the issue of overlooking and overbearing impact, I note from the applicant's submission that the Council's Planning Officer did not inspect the subject enclosed roof-space due to COVID-19 restrictions at the time. Having inspected the roof-space, I note that the subject roof is enclosed with a rendered and capped concrete wall c. 1.9m high as indicated on the photographs submitted with the appeal. It is my view that the height of this wall would prevent overlooking of neighbouring property, notably the rear elevations and private amenity space to the rear of Ross Cottages. On this basis, I do not concur with the Planning Authority that the proposed development would seriously injure the residential amenity of neighbouring property with regards overlooking. The proposed development would not have an overbearing impact on neighbouring property.
- 7.6. An observation received raises concerns with regards procedural issues regarding public notices not stating unauthorised development at the subject site and that contiguous and basement levels drawings were not submitted. I consider that any unauthorised development at the site should be dealt with by enforcement proceedings, which is a function of the Council. With regards the stated inadequacy of the drawings submitted, it is my view that this is a validation issue which is the function of the Planning Authority. I am satisfied that the drawings submitted were sufficient to describe the works to which the application relates, in accordance with the

requirements of Article 22 of the Planning and Development Regulations 2001 (as amended).

- 7.6.1. In conclusion, I consider that subject to appropriate Conditions, the proposed development would not adversely impact the amenity of the surrounding area by way of noise nuisance, overlooking or overbearance. For this reason, I recommend that the Planning Authority's reason for refusal should not be upheld and that the proposed development be granted permission.

7.7. Appropriate Assessment

The site is located c. 85m to the south-west of the Malahide Estuary SPA (Site Code: 004025) and c. 123m to the south-west of the Malahide Estuary SAC (Site Code: 000205). Having regard to the nature and modest scale of the proposed development, to the location of the site within a fully serviced urban environment, and to the separation distance and absence of a clear direct pathway to any 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.

8.0 Recommendation

- 8.1. I recommend that permission be granted subject to conditions, for the reasons and considerations below.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the town centre location of the proposed development and the 'TC - Town and District Centre' zoning objective relating to the site, it is considered that, subject to compliance with the conditions set out below, the proposed change of use of the existing first floor flat roof over the existing single storey kitchen extension to the rear of the Siam Thai Restaurant to a landscaped roof garden and smoking terrace with a lobby and access door from the existing first floor restaurant, would not impact on the residential amenity of neighbouring property, would not be prejudicial to public health and would not unduly impact on the character of the Architectural Conservation

Area in which it is located. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>(i) The hours of use of the roof garden to the rear of the restaurant shall be limited to between the hours of 12.00 hours and 21.00 daily.</p> <p>(ii) Live and/or amplified music entertainment shall not be played within the roof garden to the rear of the premises.</p> <p>(iii) No dispensing of food or drink shall take place on the roof garden.</p> <p>Reason: In the interest of the residential amenity of properties in the vicinity.</p>
3.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the Planning Authority for such works.</p> <p>Reason: To ensure adequate servicing of the development, and to prevent pollution.</p>
4.	<p>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</p>

<p>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.</p> <p>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.</p>

Brendan Coyne
Planning Inspector

17th August 2021