



An
Bord
Pleanála

Inspector's Report ABP 311251-21

Development	Outdoor Seating area with timber, steel and glass dividing panels oversailing the Camac River.
Location	Murrays Public House, No 1 Bow Bridge, Kilmainham Lane, Dublin 8.
Planning Authority	Dublin City Council.
P. A. Reg. Ref.	2937/21.
Applicant	Turfway Ltd., of Murray's Public House.
Type of Application	Permission
Decision	Refuse Permission.
Type of Appeal	First Party X Refusal
Appellant	Turfway Ltd., of Murray's Public House.
Date of Inspection	19 th November, 2021
Inspector	Jane Dennehy.

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1.0 Site Location and Description

- 1.1. Murrays Public House is located at the ground floor level of “Camac House”, a relatively recently constructed multiple storey block with frontage on Old Kilmainham Lane/Bow Bridge, in which the upper floors of the building are in apartments. The main entrance is off entrance is off Bow Bridge and there is an additional lounge entrance at the southern end of the eastern elevation.
- 1.2. The ground floor level the structure is setback beneath the upper floors and the adjoining walkway adjoins the River Camac where there is a gate at Bow Bridge. At the time of inspection tables and chairs were in the seating area adjacent to the walkway the river.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for installation of an outdoor seating area with timber, steel and glass dividing panels to the east side of the public house. It is cantilevered over the Camac River extending two metres over the riverside wall from steel support structures and along a length of 15.7 metres. The layout indicates treated timber tables and benches enclosed by mild steel and glazed guarding (1250 mm high) along the perimeter and with a cedar timber frame and steel partitions around the seating. A direct entrance off the lounge area of the pub is shown at the northern end. The total floor area is circa thirty-one square metres.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 4th August, 2021, the planning authority decided to refuse permission based on the following two reasons: -

- 1, “The proposed outdoor seating which is located in a Conservation Area and in close proximity to a number of residential dwellings, would result in a visually incongruous element through its scale, design, siting and materials which would detract from the character and appearance of the Conservation Area,

as well as have an undue and unacceptable impact on the residential amenities of those dwellings through noise and general disturbance”.

2. “The proposed development would cause serious injury to the residential amenities of properties in the vicinity, would set an undesirable precedent for similar such development and would therefore be contrary to Policy CHC4 and Section 16.30 of the Dublin City Development Plan 2016-2022, and the proper planning and sustainable development of the area. 2. The proposed outdoor seating would encroach and oversail the River Camac and has the potential to impact on flooding, particularly at high river flow conditions. The Applicants have not demonstrated that the proposal would not increase the risk of flooding to the area, would not have a negative impact on the Regional Camac Flood Alleviation Study and would not have a negative impact on the watercourse with particular regard to Policies G1 15 and G16 of the Dublin City Development Plan 2016-2022.”

3.2. Planning Authority Reports

- 3.2.1. The planning officer indicated concerns as to insensitivity to the location and visual obtrusiveness of the proposed development taking into account the Conservation Area designation, and as to potential adverse impacts on the residential amenities of apartments within Camac House and other surrounding buildings in the immediate vicinity at Bow Bridge House, Tathony House and St James Court due to potential noise and disturbances, and concerns as to effective management of hours of operation.
- 3.2.2. The Drainage Division in its report, indicates a recommendation for an additional information request. There are concerns as to potential flood risk concerns in that encroachment with it being necessary for it to be demonstrated that no adverse impacts would arise having regard to the existing hydro morphological conditions and future opportunities for restoration for the river, improvements to its condition and maintenance or creation of buffer zones to ensure protection of water quality. It is therefore recommended in the report that an appropriate flood risk assessment report be prepared and submitted to demonstrate that the development would not increase the risk of flooding at the site location and in the vicinity.

3.3. Third Party Observations

- 3.3.1. Objections lodged with the planning authority indicate concerns as to noise impact and exacerbation of existing noise levels in the area and that measures such as acoustic barriers or similar are required. Also indicated are concerns about construction stage impacts on amenity including potential ecological effects.

4.0 Planning History

P. A. Reg. Ref. 3859/99: Permission was granted for a mixed-use development - comprising demolition of existing public house, residential and garage workshop and associated buildings and for construction of a five storey over basement building including public bar and lounge with associated toilets, storage and kitchen facilities at ground and basement floor; office accommodation at first floor with access from ground floor; and apartments on the remainder of the first floor and all other floors. Under Condition 2 (a) Two apartments at fourth floor level were omitted; (b) The basement car park and car lift were omitted and (c) The line of the retaining river wall was to be adjusted to prevent encroachment on the existing line of the river at the northeast corner of the site along with corresponding adjustments to layouts at basement level and all upper floors. A compliance submission was required.

P. A. Reg. Ref. 4838/04: Permission was refused for the addition of a fifth floor to the permitted building providing for additional apartments on grounds of loss of open space provision with negative impact on residential amenities, substandard development and, material contravention of a condition attached to a prior grant of permission and conflict with the "Z1" zoning objective inappropriate encroachment on the river and to avoid the creation of a traffic hazard by constructing an access onto the public road which would necessitate a major encroachment onto a public road in close proximity to Bow Bridge and the intersection of Irwin Street and Kilmainham Lane/Bow Bridge which would interfere with the free flow of traffic on this public road and also to provide for a satisfactory scale of building on this site.

P. A. Reg. Ref 3557/201: - Permission was granted for:

- (1) change of use of the formerly intended basement car park to bicycle and bin storage area, providing basement level lobbies with retention of removal of

car lift and replacement with goods/ service lift.

(2) Internal alterations, increasing the size of kitchen area, relocation of accessible W.C., a store area and internal lobbies to the public house.

(3) Retention of alteration of entrance doors on the Bow Bridge elevation, from vehicle access doors to double doors and a single door, internal alterations including all associated site and ancillary works.

5.0 Policy Context

5.1. Development Plan

The site location is within an area subject to the zoning objective Z1: *to protect, provide and improve residential amenities.*

The location is within a designated 'conservation area' (s 11.1.5.4 refers.) Under Policy Objective CHC4 it is the objective of the planning authority to ensure the protection of the special interest and character of conservation areas.

Objective SIO26 provides for protection of residents of mixed-use developments from noise emanating from other uses such as shops, offices, nightclubs, late night busking, public houses and other night-time uses through the planning system.

Policies and objectives for on street furniture are set out in section 16.30 according to which outdoor furniture provided by private operates should be high quality with respect for the overall character of the area and public realm and so as to prevent obstruction. Regard should be had to the following criteria: Size and location of the facility, Concentration of existing street furniture in the area, The visual impact of the structure, particularly in relation to the colour, nature and extent of advertising on all ancillary screens, Impact on the character of the streetscape, effects on the amenities of adjoining premises, particularly in relation to hours of operation, noise and general disturbance, and impact on access and visibility.

Policy Objective GI15 provides for protection, maintenance, and enhancement of the natural and organic character of the watercourses in the city.

Policy Objective GI16 provides for protection and improvement to the unique natural character and ecological value of all rivers.

6.0 The Appeal

An appeal was lodged by Kane Architecture on behalf of the applicant on 30th August, 2021 according to which:

- The area has been used by patrons standing with drinks and as an external smoking area and this led to noise and disturbance. It is now intended that the space be used as a dining area with service finishing at 10 pm and with close management by the owner operator who has recently acquired and taken over of the public house.

Issues as to flooding risk are irrelevant. The river, including raised waters would flow safely beneath the structure which is of modest size is to be constructed in timber and steel above the line of the road and bridge.

6.1. Planning Authority Response

There is no submission from the planning authority on file.

7.0 Assessment

- 7.1. The issues, as reflected in the reasons attached to the decision to refuse permission, are considered under the subheadings below: -

Impact on Residential Amenities

Flooding Risk

Environmental Impact Assessment Screening

Appropriate Assessment

7.2. Impact on Residential amenities

- 7.2.1. The area, at and, in the vicinity of Bow Bridge in Kilmainham which is subject to the “Z1” residential zoning objective is characterised primarily by residential development in multi storey apartment blocks and some older dwellings, interspersed with some commercial development and local services and facilities including Murray’s public house at ground level in the Camac House apartment development.

7.2.2. The proposed development is small scale, having regard to the gross floor area of circa thirty square metres. Bearing this size in mind and the configuration whereby the narrow width in itself limits scope for standing and mixing by patrons, it appears that the operation of the space as a dining area with table service would be reasonable and compatible with the surrounding land uses, subject to restrictions to include, restriction to seated dining and table service only, a maximum of tables/patrons (with a seating plan being submitted to the planning authority for written agreement) direct access only from the interior of the bar/lounge and, restriction of hours of operation such as cessation of service at 9.30 pm and closure at 11.00 pm, and inclusion of a condition in which the duration of the grant of permission is limited to three years from the date of the order. This would provide an opportunity for further planning review following a period of operation. A strong case has been made in the appeal that demonstrates that such restricted use strongly contrasts with use as external space by patrons of a bar.

7.3. Flooding Risk.

7.3.1. The serious concerns indicated in the report of the Drainage Division of the City Council as to any potential to affect hydro-morphological conditions and contribute to increase in flooding risk in the river channel and environs especially at high flow are fully appreciated, notwithstanding the relatively small scale of the proposed development. Reference is made in the report to the Regional Camac Flood Alleviation Study being undertaken in order to identify means for improvement of management of flood risk in the catchment.

7.3.2. It is considered that the advice and recommendation in the report whereby a flood risk assessment report is required is warranted and the possibility that hydraulic modelling may be necessary to inform the study, with prior consultation being recommended is noted. It is not agreed that there is no necessity for these requirements as asserted in the appeal and as such it is considered that the reason for the decision to refuse permission has not been satisfactorily addressed so that concerns as to possible increase in flooding risk can be eliminated

7.4. Environmental Impact Assessment Screening.

7.4.1. Having regard to the minor nature of the proposed development and its location in a serviced inner urban area, removed from any sensitive locations or features, there is

no 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.

7.5. Appropriate Assessment.

- 7.5.1. Having regard to the scale and nature of the proposed development and to the serviced inner urban location, no Appropriate Assessment issues arise. The proposed development would not 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. In view of the foregoing, it is recommended that the planning authority decision to refuse permission be upheld, based on the reasons and considerations which follow. However, consideration could be given to providing the applicant with a further opportunity to provide the information recommended in the Drainage Division's report and further details such as a floor plan showing seating arrangements for consideration prior to determination of the decision.

9.0 Reasons and Considerations

The Board is not satisfied based on the information submitted in connection with application and the appeal that the proposed development would not contribute to flooding risk in the River Camac at high flow conditions and would not have negative impact on the Regional Camac Flood Alleviation Study in which a set of means to improve the management of flood risks across the catchment are to be identified. As a result, the proposed development would be prejudicial to public health and contrary to Policies G115 and G116 of the Dublin City Development Plan which provide for protection and enhancement of the natural character and ecological value of watercourses in the city.

Jane Dennehy
Senior Planning Inspector
17th December, 2021.