



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312577-22

#### Development

Demolition of extension and shed structures. Refurbishments and extension at ground. Improved and extended outdoor seating area. Repair, refurbishment, renovation and alterations to the building including all associated site works

#### Location

Eleanora's Bar & Lounge, 145, 147 & 149 Drimnagh Road, Crumlin, Dublin 12

#### Planning Authority

Dublin City Council

#### Planning Authority Reg. Ref.

2590/21

#### Applicant(s)

Christopher Keane and Darren Keane

#### Type of Application

Planning Permission

#### Planning Authority Decision

Refused Permission

#### Type of Appeal

First Party Appeal

#### Appellant(s)

Christopher Keane and Darren Keane

#### Observer(s)

Phyllis Hussien

Martha Smallhorne

**Date of Site Inspection**

27<sup>th</sup> January 2023

**Inspector**

Susan Clarke

## 1.0 Site Location and Description

1.1. The subject site, measuring 683 sq m, is located on the Drimnagh Road, approximately 5km to the south west of Dublin city centre. The L-shaped site includes No. 149 (part one/part two storey, public house – Eleanora’s) and extends to the rear of Nos. 147 and 145 Drimnagh Road (residential properties). An access road/laneway borders the site to the west (with a two-storey terrace of retail and commercial properties further beyond), providing vehicular access to a service lane, which borders the site to the south. Nos. 123-147 comprise of three terraces of two storey dwellings to the east of the site. These dwellings have small front gardens (a number with vehicular access) and long rear gardens, with the exception of No. 147. The northern side of Drimnagh Road comprises of a mix of mostly single storey semi-detached and detached dwellings.

## 2.0 Proposed Development

2.1. The proposed development consists of:

- Renovations, change of use and extension to the public house including the following:
  - Demolition of a single-storey extension to the rear of No. 147 to provide for the refurbishment and extension of toilets at ground floor level to accommodate a wheelchair accessible WC.
  - Demolition of existing shed structures to the rear of Nos. 145 to provide for the expansion of an outdoor seating area (53 sq m in total) to the rear of Nos. 145 and 147 (facing Hughes Road)
  - Construction of a storage room and recycling room (with sedum roof above) in the private open space at the rear of No. 145 Drimnagh Road.
  - Provision of a fire exit route at first floor level.
  - Removal of redundant services at roof level and provision for a green sedum roof covering.
  - Elevational alterations.

2.2. Following a Request for Further Information (RFI), the Applicant proposed that the new outdoor eating/drinking area could be partially or fully glazed with openable roof lights, maintaining 80% free open direct air space. As part of the RFI Response, the Applicant confirmed:

- Nos. 145 and 147 are in residential use (no amendments proposed to these uses)
- Nos. 145 and 147 both have two double bedrooms and a single bedroom (5 No. bedspaces each). Floor plans of the subject properties were submitted.
- Planning permission was received in the early 1990s (Reg. Refs. 305/90 and 1458/90) to extend the public house from No.149 to No. 147.
- The proposed open-air drinking/eating area is to be located at the end of the rear garden of No. 145.
- Both the compactor/recycling area and the open-air drinking/eating out area is to be enclosed by high perimeter walls. In addition, the compactor/recycling area will be enclosed with a sedum roof.
- Opening hours for the public house are Monday-Saturday 10:30am to 12:30am and Sunday: 12:30 noon to 11:30pm.
- Deliveries will only be made to the front and side of the premises. The lane to the rear is for fire escape and recycling only.

### 3.0 Planning Authority Decision

#### 3.1. Decision

The Local Authority issued a Notification of Decision to Refuse Permission for the proposed development on 17<sup>th</sup> December 2021, for the following two reasons:

1. ***Having regard to the proximity of the outdoor dining/drinking area, and the open nature of this area, to existing residential properties, in particular number 143 Drimnagh Road, it is considered that the proposed development would seriously injure the residential amenities of adjoining properties and would be contrary to the zoning objective for the area and contrary to***

**section 14.7** of the Dublin City Development Plan 2016-2022, by reason of **excessive noise and general disturbance**. The proposed development would, therefore seriously injure the amenities and depreciate the value of property in vicinity and would be contrary to the proper planning and sustainable development of the area.

2. Having regard to the **established pattern of development to the east** of this site which is primarily residential properties, and the **increase in footprint** of the public house into the rear garden on an existing residential property at number 145 Drimnagh Road, it is considered that the proposed development would result in an **unsatisfactory standard of residential amenity** for the existing residents in the house, and would **result in overdevelopment** of the site by reason of the **inadequate provision of quality private open space**. The proposed development would, therefore seriously injure the amenities and depreciate the value of property in vicinity and would be contrary to the proper planning and sustainable development of the area. (Bold: My emphasis.)

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports (4<sup>th</sup> June 2021 and 16<sup>th</sup> December 2021)

The Planning Officer stated that *having regard to the proximity of the proposed outdoor dining /drinking area to the adjoining residential property at number 143 Drimnagh Road, and to the existing residents at numbers 145 and 147 Drimnagh Road, it is considered that this development would be seriously injurious to their residential amenities, by reason of noise related issues and general disturbance. The planning authority notes that the applicant has tried to address some of these noise related issues, however taken into consideration the proximity of the outdoor area to the adjoining property, and the open nature of this area, covered by a pergola, and having regard to the other concerns raised above it is considered that planning permission should be refused as the proposed development would be contrary to section 14.7 of the Dublin City Development Plan in relation to transitional zone areas, as the proposed development would be detrimental to the amenities of the more environmentally sensitive Z1 zoning.* The Officer recommended that permission be refused in line with the above reasons.

### 3.2.2. Other Technical Reports

Drainage Department (5<sup>th</sup> May 2021): No objection, subject to condition.

### 3.3. Prescribed Bodies

Irish Water: No comments received.

### 3.4. Third Party Observations

Six Third-Party Observations from local residents were submitted to the Local Authority in respect of the proposed development. The key points raised can be summarised as follows:

- Alleged unauthorised change of use of Nos. 145 and 147 and works to No. 149
- Negative noise impacts and no noise mitigation measures proposed
- Devaluation of property
- Overconcentration of pubs in the area.
- Contrary to land use policy (Z1)
- Insufficient private open space for No. 147
- Concerns in relation to access and use of the laneway
- Litter and dumping in the area
- Overspill car parking
- Air pollution from smoking and wooden burners in beer garden
- Anti-social behaviour
- Overlooking and loss of privacy
- Overshadowing
- Inadequate drainage/sewage facilities
- Road/pedestrian safety

## 4.0 Planning History

**Reg. Ref. 305/90:** Permission granted on 9<sup>th</sup> May 1990 for “*demolish, re-instate, altar licenced premises resulting from fire damage to include cellar, bar/lounge, at ground floor level, restaurant at 1<sup>st</sup> floor level and alterations to façade at 147/149 Drimnagh Road, Dublin 12*”.

**Reg. Ref. 1458/90:** Planning granted on 17<sup>th</sup> October 1990 for “*erect restaurant and kitchen extension at first floor level to approved plans at licenced premises at 147-149 Drimnagh Road, Dublin 12*”.

## 5.0 Policy Context

### 5.1.1. Dublin City Development Plan 2022-2028

Since the Local Authority issued a Notification of Decision to Grant Permission for the proposed development, a new development plan has been prepared and adopted for the City. The relevant development plan to this assessment is the Dublin City Development Plan 2022-2028, which was adopted on 2<sup>nd</sup> November 2022 and came into effect on 14<sup>th</sup> December 2022.

The site has a split land use zoning objective: No. 149 is zoned Z4 (Key Urban Villages/Urban Villages), while the rear of Nos. 147 and 145 are zoned Z1 (Sustainable Residential Neighbourhoods). Z4 aims “*To provide for and improve mixed-services facilities*” and Z1 aims “*To protect and/or improve the amenities of residential conservation areas*”. “Public house” uses are permissible on Z4 zoned lands and are open for consideration on Z1 zoned lands.

Section 14.6 of the Development Plan refers to Transitional Zone Areas and states *inter alia*: *In dealing with development proposals in these contiguous transitional zone areas, it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zones. For instance, in zones abutting residential areas or abutting residential development within predominately mixed-use zones, particular attention must be paid to the use, scale, density and design of development proposals, and to landscaping and screening proposals, in order to protect the amenities of residential properties.*

Section 15.14.12 of the Development Plan relating to Night Clubs/Licensed Premises/Casinos/ Private Member Clubs states:

*In recognition of the importance of Dublin as a thriving and multi-dimensional capital city, there is a need to facilitate the concept of the 24-hour city, particularly in the city centre and other key urban villages.*

*Dublin City Council will encourage entertainment/cultural/music uses which help create an exciting city for residents and tourists alike.*

*There is a need to strike an appropriate balance between the role of these entertainment uses in the economy of the city and the following:*

- *To maintain high-quality retail functions on the primary city centre streets and ensure a balanced mix of uses.*
- *To protect the amenities of residents from an over-concentration of late night venues.*
- *Noise emanating from and at the boundaries of these establishments are issues which will need to be addressed in planning applications for such establishments. Noise insulation and reduction measures, especially relating to any mechanical ventilation or air-conditioning, will be required to be submitted with any such planning application.*
- *To minimise the impact and street presence of casinos / members clubs. Therefore, there will be a general presumption against inappropriate advertising for casinos / gambling/ members clubs.*

*The development of 'superpubs' will be discouraged and the concentration of pubs will be restricted in certain areas of the city where there is a danger of overconcentration of these to the detriment of other uses. In cases where new uses, including uses such as casinos and private members' clubs, or extensions to the existing use are proposed, the onus is on the applicant to demonstrate that such proposed development will not be detrimental to the residential, environmental quality or the established character and function of the area.*



*Matters that shall be taken into account by the planning authority in assessing planning proposals for these uses and extensions to such uses include, but are not limited to the following:*

- *The amenity of neighbouring residents and occupiers.*
- *Hours of operation.*
- *Traffic management.*
- *Shop frontage treatment and impact on streetscape.*
- *Proposed signage.*

Section 15.11.3 of the Development Plan outlines private open space requirements for houses in the City and states *inter alia*:

*Private open space for houses is usually provided by way of private gardens to the rear of a house. A minimum standard of 10 sq. m. of private open space per bedspace will normally be applied. A single bedroom represents one bedspace and a double bedroom represents two bedspaces. Generally, up to 60-70 sq. m. of rear garden area is considered sufficient for houses in the city. In relation to proposals for house(s) within the inner city, a standard of 5– 8 sq. m. of private open space per bedspace will normally be applied.*

*These standards may be relaxed on a case by case basis subject to a qualitative analysis of the development.*

## **5.2. Natural Heritage Designations**

The site is not located within or close to any European site.

## **5.3. EIA Screening**

Having regard to the nature and scale of the proposed development in a serviced urban area, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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

A First-Party Appeal was submitted to An Bord Pleanála on 24<sup>th</sup> January 2022 opposing the Local Authority's decision. The grounds of appeal can be summarised as follows:

- The proposed development will facilitate: provision for a fully compliant disability access restroom, improved male and female restrooms, improved shared lobby space; improved outdoor seating areas in compliance with COVID guidelines; provision for improved recycling and storage facilities on site; and improved visual look to rear of property and improved passive security onto laneway.
- The Appal proposes a fully glazed roof to cover the outdoor seating area, with openable sections to allow for proper ventilation when required. This will greatly improve the current levels of outdoor use and noise levels of this area.
- Additional improved factors that have been introduced such as extending the current outdoor space to a double height space in a solid masonry brick feature wall wrap, which will further enclose the space and provide a physical barrier to any horizontal noise transmission or view.
- Provision of a sedum roof to other areas of the existing building will have a positive impact.
- In relation to No. 145, the proposal is compliant with the Development Plan's private open space standards and therefore would not cause a reduction in residential amenity.

### 6.2. Planning Authority Response

No comments received.

### 6.3. Observations

Two Observations from local residents on the Drimnagh Road were received by the Board from Phyllis Hussien and Martha Smallhorne.

The key points from the Observations can be summarised as follows:

- Proposal is contrary to the site's Z1 land use zoning.
- Noise pollution day and night as well as air pollution impacting quality of life. Inadequate noise mitigation measures proposed.
- Lack of car parking on the laneway to the rear of the premises.
- Laneway is littered with beer bottles, pint glasses, causing hazard and inconvenience. Proposal will escalate these matters.
- Proposal no longer warranted due to the lifting of Covid-19 restrictions.
- Concern that management may proceed to implement a permanent outdoor seating structure to the front of the public house without express permission.
- Proposed double height boundary will cause significant overshadowing and loss of natural daylight to neighbouring properties.
- Concern that the fire escape and green sedum roof will come into general use by staff/patrons.
- Concerns regarding anti-social behaviour. Premises currently operates until 2:30am on the weekends by way of a licence extension.
- Concerns regarding vermin control.
- Inaccuracies on the planning drawings.
- Notes that No. 145 has seven bedspaces as the front room is used as a double bedroom.

### 6.4. Further Responses

None.

## 7.0 Assessment

Having examined the application details and all other documentation on file, including the First-Party Appeal and Observations, inspection of the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development, and
- Residential Amenity.

These issues are addressed in turn below.

### 7.1. Principle of Development

As stated above, the site has a split land use zoning objective: No. 149 is zoned Z4 (Key Urban Villages/Urban Villages), while the rear of Nos. 147 and 145 are zoned Z1 (Sustainable Residential Neighbourhoods). “Public house” uses are permissible on Z4 zoned lands and are open for consideration on Z1 zoned lands. While I consider the principle of the development to be acceptable in terms of land use zoning, regard must also be had to Section 14.6 (Transitional Zone Areas) of the Development Plan which states that it *“in dealing with development proposals in these contiguous transitional zone areas, it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zones”*. As such due regard must be had to the neighbouring residential properties (on Z1 lands) in the immediate vicinity of the site. This is considered in further detail below.

### 7.2. Residential Amenity Impacts

- 7.2.1. In my opinion, the key consideration in this case is the residential amenity impacts associated with the proposed outdoor drinking/eating space. As stated by the Applicant in the Architectural Design Statement the area is a suburb. The site includes areas which would have formerly formed part of the rear gardens associated with No. 147 and 145. The Applicant confirmed in the RFI Response that both these properties are in residential use. Furthermore, Nos. 123-143 Drimnagh Road all appear to be in residential use. In addition, the rear gardens of the dwellings on Hughes Road front onto the laneway at the back of the site.

- 7.2.2. The Local Authority considered that having regard to the proximity of the proposed outdoor dining /drinking area to the adjoining residential property at No.143 Drimnagh Road, and also to the existing residents at Nos. 145 and 147 Drimnagh Road, that the development would be seriously injurious to their residential amenities, by reason of noise related issues and general disturbance.
- 7.2.3. In considering the issue at hand, I note that the Development Plan acknowledges that, in seeking to achieve an appropriate balance between the role of entertainment uses in the economy of the city, there is a need to protect the amenities of residents from an over-concentration of late-night venues. The Development Plan confirms that noise emanating from, and at the boundaries of these establishments, will need to be addressed in planning applications for such development, including noise insulation and reduction measures. Thus, the onus is on applicants to demonstrate that the outdoor drinking/eating area will not be detrimental to the residential, environmental quality or established character and function of an area.
- 7.2.4. The Applicant's agent submits that the area is semi-covered and suggests that a fully glazed roof with openable sections to allow for ventilation could be provided. In addition, the Applicant argues that the double height boundary wall in the southeast corner of the site would mitigate the negative impacts of the original smoking area on adjoining residential land uses. However, no evidence has been provided to support this position. In this regard, I note that no details have been provided of: (1) the pre-existing noise levels within the ground floor smoking area; (2) the predicted noise levels arising on foot of the installation of a roof covering; or (3) any other noise insulation or reduction measures. In my opinion, this is a significant omission given the proximity of the proposed/retained uses to the residential uses. While I note the hours of operation referenced by the Applicant, given the likely intensification of use which would occur on foot of the change of use of this space, I consider that the potential exists for significant noise impacts to arise to the occupants of neighbouring residential properties.
- 7.2.5. Thus, while the need to promote mixed-uses in the economy of the city is acknowledged, in this instance, I consider that the provision of the proposed outdoor drinking/eating space would be unacceptable, by reason of its likely significant noise impacts on adjoining residential properties. As such, I concur with the Local Authority's first reason for refusal, and I consider that permission should also be refused for same.

- 7.2.6. In relation to the proposed storage and recycling and compactor areas, having regard to the fact that both these spaces would be fully enclosed and that these areas would only be used at limited times by staff, I do not consider it likely that they would generate significant noise levels for extended periods of time to unduly impact on the area's residential amenity. However, acknowledging Section 15.11.3 (Private Open Space) of the Development Plan, which states "*Generally, up to 60-70 sq. m. of rear garden area is considered sufficient for houses in the city*", I do not consider that there is sufficient justification for the reduction in the size of the area, which would negatively impact on the dwelling's residential amenity. The rear garden would measure approx. 34 sq m as a result of the development. I reiterate that this section of the site is zoned Z1. I concur with the Local Authority that the standard of 5–8 sq. m per bedspace for inner city houses is not applicable to this case. As stated above, the Architectural Design Statement notes the suburban location of the site. Therefore, I concur with the Local Authority's second reason for refusal, and I consider that permission should also be refused for same.
- 7.2.7. The Observers raised concerns in relation to potential overlooking from the proposed fire escape route at First Floor Level. In my opinion, as this exit route would only be used in emergency situations, it would not result in undue overlooking of the neighbouring properties.
- 7.2.8. In terms of the visual impact from the proposal, I consider the proposed elevational alterations to be relatively minor in nature and as such, in my opinion, will not adversely impact the area's visual amenity. I note the Observers' concerns regarding the visual and overshadowing impacts from the double height masonry wall in the southeast corner of the site. However, I note that all the rear gardens of Nos. 123-143 have sheds/garages at the end of their rear gardens fronting onto the laneway (see Photo 8 attached to this Report). As such, the proposed double height boundary wall would not result in increased levels of overshadowing or loss of daylight currently experienced by these properties to such an extent that it that would unduly impact their amenity. Furthermore, whilst not widely visible, I consider that the removal of redundant services at roof level and provision for a green sedum roof covering, would improve the visual amenity of the area.
- 7.2.9. In terms of the alterations to the toilets at ground floor level, I do not consider that such works would have any impact on the residential amenity of the area, having regard to

the fact that this section of the site, whilst formerly the rear garden of No. 147, has formed part of the public house for some time.

7.2.10. In terms of traffic generation, the outdoor drinking/space would measure 53 sq m and would form an extension to an established public house. Having regard to the size and nature of the development, the Road Traffic Act, and the provision of public transport in the area, I do not consider that the proposal will result in traffic and car parking congestion.

7.2.11. In conclusion, notwithstanding that some elements of the proposal (i.e. the refurbishment of the ground floor toilets, provision of the first floor level fire escape route and sedum roof) would not negatively impact on the area's residential amenity, having regard to the likely adverse noise impacts from the proposed outdoor drinking/eating area on neighbouring dwellings and the loss of private open space associated with No. 147, I consider that the proposal would be contrary to Section 14.6 of the Development Plan.

## **8.0 Appropriate Assessment**

Having regard to the nature and scale of the proposed development in an established urban area on serviced land, and the separation distance to the European sites to the subject site, I do not consider that the proposal would be likely to significantly impact the qualifying interests of the European Sites during either the construction or operational phases of development. As such, I consider that no Appropriate Assessment issues arise. In conclusion, I do not consider 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.

## **9.0 Recommendation**

I recommend that planning permission be refused for the proposed development based on the reasons and considerations set out below.

## 10.0 Reasons and Considerations

1. It is the policy of the planning authority as set out in section 14.6 of the Dublin City Development Plan 2022-2028 to ensure that, when considering development proposals in contiguous transitional zonal areas, it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zones. Having regard to the proximity of the proposed outdoor drinking/eating area to residential properties, and the intensification of the use of this space which would arise on foot of its enclosure, the Board is not satisfied based on the evidence submitted with the planning application and appeal, that this space, would not seriously injure the residential amenities of properties in the vicinity by reason of noise impacts. The proposed development would, therefore, be contrary to the provisions of the development plan and to the proper planning and sustainable development of the area.
2. Having regard to the established pattern of development to the east of this site which is primarily residential properties, and the increase in footprint of the public house into the rear garden on an existing residential property at number 145 Drimnagh Road, it is considered that the proposed development would result in an unsatisfactory standard of residential amenity for the existing residents in the house, and would result in overdevelopment of the site by reason of the inadequate provision of quality private open space. The proposed development would, therefore, be contrary to the provisions of the development plan and to the proper planning and sustainable development of the area.

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Susan Clarke  
Planning Inspector

27<sup>th</sup> January 2023