



An
Bord
Pleanála

Inspector's Report

ABP-313305-22

Development	Pub Indoor and Outdoor Renovations
Location	The Bottle Tower Pub, Corner of Beaumont Avenue and Churchtown Road Upper, Dublin 14
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D22A/0044
Applicant(s)	Darjan Ltd.
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	1. Davis Coolican and Others 2. John Lee
Observer(s)	None.
Date of Site Inspection	26.02.2023
Inspector	Fiona Fair

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1.0 Site Location and Description

- 1.1. The subject site, with stated site area of 0.848 Ha, is located on a corner at the junction of Beaumont Avenue and Churchtown Road and comprises the Bottle Tower licensed premises, which primarily consist of a two-storey building and the associated outdoor area currently in use for outdoor seating and which previously was used as the pub car park.
- 1.2. The subject site is bounded by Churchtown Road (R112) to the north; 'Leighton', a two storey end of terrace dwelling on Churchtown Road Upper to the east; No. 1 Beaumont Avenue to the south; and Beaumont Avenue to the west.
- 1.3. The streetscape of in the vicinity of the subject site is characterised by residential properties to the east, along Churchtown Road Upper, and commercial properties (a fast food outlet, a betting shop and a launderette) to the south along Beaumont Avenue.
- 1.4. There are about 14 diagonal parking spaces in front of these business premises, along Beaumont Avenue. On the other side of Beaumont Avenue is a four storey block of local authority apartments (Saint Nathy's House) and beyond this is another small commercial area at Fields Corner. Churchtown Road is part of a regional route (the R112) which links the Stillorgan Road/N11 in the east to Walkinstown in the west.

2.0 Proposed Development

- 2.1. Permission for development consisting of:
 - 1) New entrance door with lobby and a new window to existing north elevation, part demolition of existing cold store and relocation of service doorway.
 - 2) Alterations to internal ground floor layout including new toilet block with windows and all associated works.
 - 3) Erection of new boundary walls with piers, railings, gateways, and planting screen to northern, western, and eastern site boundaries to include new covered and secure long and short stay bicycle parking bays with adjacent cycle facilities.
 - 4) A new outdoor seating area.

- 5) New screened and covered bin storage area to north elevation.
- 6) Retention permission is also sought for a fixed sign with stone plinth to north-western corner of the site.

3.0 Planning Authority Decision

3.1. Decision

Grant Permission subject to seven number conditions. Of note:

Condition 2. This planning permission shall cease to have effect five years from the date of this order. The outdoor sitting area shall thereafter return to its previous use as a car park unless planning permission is obtained to extend the hereby permitted use beyond those 5 years.

Reason: To allow the planning authority to monitor the implementation and adherence to the conditions set out in this grant of planning permission.

Condition 3. Provision shall be made for a deliveries/loading bay on Beaumont Avenue. Prior to commencement of the use permitted by this grant of permission details of the bay dimensions and road markings shall be submitted to, and agreed in writing with, the planning authority.

Reason: To ensure a satisfactory layout for commercial vehicles in the interest of traffic safety.

Condition 4. No music or amplified sound shall be audible outside the premises in such a manner as to cause nuisance to the occupants of nearby property.

Reason: In the interest of amenity

Condition 5. The hours of operation shall be between 1200 hours and 2300 hours Monday to Friday and between 1200 hours and 2200 hours on Saturday and Sunday,

Reason: In the interest of the residential amenities of property in the vicinity.

Condition 6. All necessary measures shall be taken by the Applicant and Contractor to avoid conflict between construction traffic/activities and traffic/road users, particularly pedestrians and cyclists on the R112 Churchtown Road Upper and Beaumont Avenue, during construction works.

Reason: In the interest of road safety.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report recommended a grant of permission as set out in the Manager's Order.

3.2.2. Other Technical Reports

3.2.3. Transportation Planning Report

Dated 15th March 2021. No objection subject to conditions. Report as per the following:

'Transportation Planning note the previous planning history on the site, and Reg. Ref. D18A/0159 in particular, In relation to the provision of outdoor seating in the car park of The Bottle Tower Pub which was refused by both Dun Laoghaire-Rathdown County Council (DLRCC) and An Bord Pleanala.

The reason given by DLRCC was that the proposed development 'would endanger public safety by reason of traffic hazard or obstruction of road users'. One of the reasons given by An Bord Pleanala was that 'The applicant has not demonstrated that the proposed development would allow for the adequate servicing of the premises by delivery and collection vehicles. The Board cannot therefore be satisfied that the proposed development would not lead to conditions which would be prejudicial to public safety by reason of traffic hazard on the public roads in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.'

The reasons given by DLRCC and An Bord Pleanala were effectively the same, that delivery and collection vehicles serving the pub would/are likely to be a traffic hazard.

The subsequent planning application, Reg. Ref. D20A/0454, for the temporary provision of an outdoor seating area as a Covid measure, was granted by both DLRCC and An Bord Pleanala.

Both the DLRCC and An Bord Pleanala Grants of Permission included a Condition requiring the provision of a Loading Bay on Beaumont Avenue to provide for delivery and collection vehicles serving the pub which was the previous reason for refusal regarding traffic hazard. The required Loading Bay on Beaumont Avenue has been provided.

This planning application, Reg. Ref. D22A/0044, effectively seeks to make the temporary provision of an outdoor seating area as a Covid measure permanent.

Transportation Planning also note the submissions/observations received on the planning application from nearby residents pointing out that the provided Loading Bay on Beaumont Avenue is subject to substantial abuse/misuse, and hence unavailable to delivery and collection vehicles serving the pub, resulting in illegal/unsafe parking by these delivery/collection vehicles in the vicinity of the pub.

However Transportation Planning consider that the abuse/misuse of the provided Loading Bay on Beaumont Avenue, and hence it's unavailability to delivery and collection vehicles serving the pub, is a matter of lack of enforcement by An Garda Siochana Roads Policing Unit, outside the control of the Applicant, and therefore not something that can be used as a reason to refuse this planning application.

Regarding the previous reason for refusal in Reg. Ref. D18A/0159, the situation remains that a Loading Bay has been provided on Beaumont Avenue to provide for delivery and collection vehicles serving the pub.

3.2.4. Transportation Planning have no objection to the proposed development subject to condition.

3.2.5. Drainage Planning reported no objection.

3.3. Prescribed Bodies

None on File

3.4. Third Party Observations

Five number third party submissions were received, the main points of which are summarised as follows:

- The proposed development is very similar to previous applications that were refused due to issues with Health and Safety, Noise Pollution, Delivery Issues and Parking.
- The permission for the temporary outdoor seating area has expired. Car park area should revert back to its original use.
- The reverting of the outdoor seating to car parking is required as issues with delivery trucks have been a hazard over the last year.
- Customers of the Bottle Tower Pub have been parking in the surrounding residential areas as car parking is temporarily not available on site.
- The site has a history of unpermitted outdoor seating areas.
- Proposal will have a material impact on the amenity of adjoining residential properties.
- The outdoor seating has caused noise pollution.
- The first floor of the pub could be utilised for additional seating but remains closed.
- The approved loading bay is utilised by staff and patrons, resulting in delivery trucks blocking the paths.
- Outdoor sitting area installed in 2017 without the benefit of planning permission.
- There is no justification for granting permission for the sitting area and other elements of the proposal
- The loading bay has been used for additional outdoor seating.
- Condition attached to previous permission has not yet been addressed.
- The pub is not part of a shopping complex.
- Covid restrictions have been lifted and there is no reason why outdoor seating area must remain.

- The area is predominantly a residential area the proposal will negatively impact on the amenity of residents.

4.0 Planning History

ABP 308200-20 / Reg. Ref. D20A/0454 Permission granted for temporary change of use from outdoor car parking area to outdoor seating area for the pub to comply with social distancing requirements at the Bottletower Public House at Beaumont Avenue/Churchtown Road Upper, Churchtown, Dublin 14.

Grant with conditions. Condition 2 limited the lifetime of the permission to 1 year from the date of the order.

Condition 3 requires road markings for a deliveries/loading areas on Beaumont Avenue.

Condition 5 requires that the hours of operation shall be between 1200 hours and 2300 hours Monday to Friday and between 1200 hours and 2200 hours on Saturday and Sunday.

This permission expired on 12th December 2021 - one year from the date of the order by An Bord Pleanála (3rd December 2020) plus 9 no. additional days in accordance with S.251 of the Planning and Development Act (as amended).

Under ABP302173 -18 permission was refused for the conversion of 83m² of car parking to seating area related to the permitted public house use at the corner of Beaumont Avenue and Churchtown Road Upper. The Board refused permission for two reasons:

Reason 1

‘The applicant has not demonstrated that the proposed development would allow for the adequate servicing of the premises by delivery and collection vehicles. The Board cannot therefore be satisfied that the proposed development would not lead to conditions which would be prejudicial to public safety by reason of traffic hazard on the public roads in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area’.

Reason 2

'In the absence of adequate attenuation measures, it is considered that the proposed development would result in adverse noise impacts to the residential amenities of adjacent residential properties. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area'.

D16A/0862- Permission granted by the Planning Authority for retention of a wooden enclosure to mechanical plant at roof level and a safety guard rail at the perimeter of roof over first floor.

Enforcement

The PA report states that there are no current enforcement files found.

5.0 Policy Context

5.1. Development Plan

5.1.1. The subject planning application was assessed by the PA under the Dun Laoghaire-Rathdown County Development Plan 2016-2022, while the county development plan has changed and the statutory Plan is now the Dun Laoghaire Rathdown County Development Pan 2022 – 2028, the zoning attributed to the subject appeal site has not changed.

5.1.2. The subject site is zoned '**NC**', with the zoning objective 'To protect, provide for and /or improve mixed-use neighbourhood centre facilities', in the Dun Laoghaire Rathdown County Development Pan 2022 - 2028.

Public House is permitted in principle in this zone.

7.2.3.1 Policy Objective MFC1:

Multifunctional Centres

5.1.3. It is a Policy Objective of the Council to embrace and support the development of the County's Major Town Centres, District Centres and Neighbourhood Centres as multifunctional centres which provide a variety of uses that meet the needs of the community they serve.

7.5.4.1 Policy Objective RET7:

Neighbourhood Centres

- 5.1.4. It is a Policy Objective of the Council to support the development of the Neighbourhood Centres as the focal point of the communities and neighbourhoods they serve, by way of the provision of an appropriate mix, range and type of uses – including retail and retail services – in areas zoned objective ‘NC’ subject to the protection of the residential amenities of the surrounding area.

12.6.1 Assessment of Development Proposals in Towns, District and Neighbourhood Centres.

12.6.8 Shopfronts, Signage, Advertising and Public Art

12.6.8.1 Shopfronts

- 5.1.5. Good shopfront design makes a valuable contribution to the environmental quality of shopping areas. The overall preference is for ‘open’ design shopfronts with no security shutters, with an illuminated goods display and otherwise some element of lighting on shopfront windows on main shopping streets. The Council will control the design of shopfronts in line with the following principles - the scope of which encompasses not only shops but also other business frontages, such as restaurants, public houses, banks, and offices- namely:

12.9.3 Noise, Odour and Vibration Generating Uses

- 5.1.6. In considering applications for development where the proposed use may cause noise, vibrations and air emissions (for example, gyms, public houses, leisure facilities, restaurants and retail) applicants will be required to demonstrate that consideration has been given to the ventilation strategy for buildings at the design stage, to prevent noise, to minimise the causing of any noise or vibration that might give reasonable cause for annoyance to persons in any premises in the neighbourhood, as per Section 34(4)(c) of the Planning Act, and air emissions that may cause nuisance from equipment and ducting. The design of buildings and services should consider and incorporate acoustic attenuation and mitigation as required, to ensure that the operational phase of the development does not generate unacceptable noise levels or odour nuisance within the receiving environment.

Restaurant, Café, Bar, Lounge > 100sqm

Zone 1 (MTC areas and Blackrock) 1 per 100 sq.m

Zone 2 Near Public Transport 1 per 50 sq. m

Zone 3 Remainder of the County 1 per 30 sq. m

Zone 4 Rural 1 per 25 sq. m

12.4.5.7 Parking and Loading Bays

12.4.6 Cycle Parking

12.4.6.2 Cycle Parking Assessment Criteria

12.9.10 Public lighting

12.9.10.1 Light Pollution

5.2. Natural Heritage Designations

The proposed development has been screened for AA (report on file) and it has been determined that the development proposed alone or in combination would not significantly impact upon a Natura 2000 Site.

None relevant.

5.3. EIA Screening

Having regard to the scale and nature of the proposed development, in an urban area, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an environmental impact assessment can therefore, be excluded by way of preliminary examination.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. Two number third party appeals from the owners of 'Leighton, Upper Churchtown Road and Dunluce Upper Churchtown Road, they raise similar issues and are jointly summarised as follows:

- Current status of area marked 'Existing Outdoor Seating Area'.

- Previous and continuous non compliance.
- Increased noise and impact on local amenity
- Diminishing privacy and additional outdoor noise levels
- Local / Residential area impact.
- The view to the east and north from the location of the proposed outdoor seating area is such that the patrons will be able to see into the bedrooms of the adjacent houses
- Risk to pedestrian safety
- Proximity of out door seating area to 'Leighton' to the eastern boundary, noise impact concerns.
- Seating capacity concerns
- The applicant has not shown any intention to use the first floor for patrons other than as a function room
- Health and Safety concerns from illegal parking, mis use of the loading bay, delivery / collections / loading bay not operating acceptable or in accordance with conditions of extant permissions.
- Numerous calls logged with Dundrum Garda Station re: illegal parking.
- Need to protect the safety of the community, and the local amenity.
- Previous refusal ABP302173-18 / D18A/0159 – decision to refuse permission due to proposal endangering public safety by reason of a traffic hazard. No material change in the subject application.
- Appeals accompanied with submissions to DLRDCC and Photographs of illegal parking and mis use of loading bay.

6.2. Applicant Response

6.3. A first party response was received it is summarised as follows:

- Condition 4 of D22A/0044 restricts noise

- Condition 5 of D22A/0044 restricts opening hours of the outdoor seating area to 23:00
- No complaints to the Guards re: noise
- The premises is operated in accordance with noise restrictions and closing times imposed.
- The size of the seating area has remained as before under the temporary permission D20A/0454 there has been no increase in size or capacity of the seating area, nor has the seating area been moved closer to neighbouring properties.
- The brick walls piers and metal railings proposed as part of this application will improve the local area.
- Covered and public cycle parking bays will be an improvement to the area.
- The Loading Bay along Beaumont Avenue is used as a loading bay and operates as such the majority of the time. Illegal parking within the loading bay is not the norm.
- The area is a zoned neighbourhood centre.
- To suggest that the loading bay in this neighbourhood centre, which was installed in accordance with RRM009 is any less suitable or carried a greater risk to safety than identical loading bays in other parts of the city, is disingenuous and unsubstantiated.
- The owners of the Bottle Tower Pub have reached out to their suppliers and requested that their drivers respect the amenities of neighbourhoods. They are proactive in trying to mitigate against any potential illegal parking.
- A new boundary wall will help to enforce parking.
- The owners can not be held responsible for enforcing traffic laws.
- The proposal will result in an overall visual improvement and amenity improvement to the area.
- Response accompanied with:

- Ancillary documentation as part of submission – grant of permission D22A/0044 and copy of Drawings for Street Furniture Licence to loading bay.
- Photos of notice and tape installed along Churchtown Road Upper,
- Copy of old delivery schedules, and new bi-weekly delivery schedules and times.
- Copy of letter from main bottle suppliers Letts – largest truck delivery vehicle.
- Copy of email correspondence with DLR Roads Division
- Copy of Drawings for Street Furniture License to Loading Bay 20/07/2020 granted by DLR
- Taxi call button fitted inside Bottle Tower Pub.

6.4. Planning Authority Response

6.4.1. Response received it is summarised as follows:

- Refers the Board to the previous Planners report.
- Considers that the grounds of appeal do not raise any new matter, which in the opinion of the PA, would justify a change of attitude to the proposed development.

6.5. Observations

- None.

6.6. Further Responses

- None.

7.0 Assessment

7.1. Having inspected the site and examined the associated documentation, I consider the following are relevant issues in this appeal:

- Principle of the proposed development.
- Traffic and Parking
- Impact on Residential Amenity
- Visual Impact
- Other Issues
- Appropriate Assessment

7.2. Principle of the proposed development.

- 7.2.1. The subject appeal site is located within zoning objective 'NC', in the Dun Laoghaire Rathdown County Development Plan 2022 – 2023, which seeks 'to protect, provide for and / or improve mixed-use neighbourhood centre facilities'. The existing Public House use is a 'permitted in principle' use, therefore the expansion/modifications of the existing premises, incl. alterations to the façade, erection of new boundary walls, new toilet block, covered secure long and short stay bicycle parking bays, a new outdoor seating area, new bin storage area and retention of a fixed sign with stone plinth at this location is considered permissible in principle under the zoning objective.
- 7.2.2. Regard is had to Policy Objective RET7: 'Neighbourhood Centres', which states: 'It is a Policy Objective of the Council to support the development of the Neighbourhood Centres as the focal point of the communities and neighbourhoods they serve, by way of the provision of an appropriate mix, range and type of uses – including retail and retail services – in areas zoned objective 'NC' subject to the protection of the residential amenities of the surrounding area'.
- 7.2.3. I am satisfied that the principle is generally acceptable provided the proposed development adequately safeguards the amenities of the adjoining properties, would not result in a traffic hazard or negative visual impact.
- 7.2.4. Regard is had that the lands abutting the site to the east have the zoning objective 'A', which seeks: 'To protect and-or improve residential amenity.' The site may, therefore, be considered a Transitional Area.

- 7.2.5. I note third party concerns raised in the third-party appeals submitted. Impact upon residential amenity, traffic and parking and visual amenity will be assessed in detail in the succeeding sections of this report.
- 7.2.6. Cognisance is had that the Bottle Tower Public House is a long-established existing premises also that there is a precedent set by a temporary one year permission, now lapsed, on the subject site granted under ref. D20A/0454 (ABP-308200-20) for the temporary use of the car park as an outdoor seating area for the pub.
- 7.2.7. I am of the opinion given the zoning objective for the lands, planning history and surrounding uses, that the proposal is acceptable in principle and that there is a planning gain to the erection of a new boundary wall with piers, railings, gateways and planting to the north, western and eastern site boundaries and to the inclusion of long and short stay secure covered bicycle parking bays with adjacent facilities.

7.3. Traffic & Parking

- 7.3.1. I note that one of the primary concerns raised by third parties relates to the loss of a dedicated area for temporary parking for delivery vehicles. Traffic issues around servicing/deliveries to the subject pub premises, misuse of the dedicated loading bay, and thus it is contended that the proposal would give rise to a traffic hazard or obstruction of road users. Third parties have submitted evidence of the misuse of the designated loading bay for parking of private cars resulting in delivery trucks and vans parking over cycle lanes or blocking adjoining residential driveways.
- 7.3.2. The proposal for the outdoor sitting area (173 sq. m) and the provision of cycle parking spaces (some 7 stands) and associated changing facilities (42 sq.m) would give rise to the loss of all off-street parking spaces previously available for staff and patrons of the public house.
- 7.3.3. The PA note that in accordance with Table 8.2.4 of the Development Plan 2016-2022, a car parking standard of 1 space per 20 sqm would apply. However, that is a maximum standard, with no minimum quantum of car parking established.
- 7.3.4. In the new CDP 2022 – 2028 I note that 'Restaurant, Café, Bar, Lounge > 100sqm' 'located within Zone 2', 'Near Public Transport', have a standard of 1 per 50 sq. m. I note the GFA of the public house is stated as 668 sq. m and the outdoor seating area is 173 sq. m

- 7.3.5. I wholly agree with the PA that having regard to the site's accessibility to public transport (Including the LUAS - 1km to the east); the existing provision of on-street parking associated with the neighbourhood centre; and national policy that seeks reduction of car usage in favour of more sustainable modes of transport (National Planning - Framework National Policy Objective 64, inter alia, refers) the removal of car parking spaces, as proposed is deemed acceptable.
- 7.3.6. Regard is had to the planning history on the site and to the transportation department report of the PA, set out in detail in section 3.2.3 above. The premises is located within a zoned and established 'NC'. As set out above policy objective RET7: 'Neighbourhood Centres', which supports the development of the Neighbourhood Centres as the focal point of the communities and neighbourhoods they serve, by way of the provision of an appropriate mix, range and type of uses, is relevant.
- 7.3.7. I agree with the first party that to suggest that the loading bay in this neighbourhood centre, is any less suitable or carried a greater risk to safety than identical loading bays in other parts of the city, is unsubstantiated.
- 7.3.8. While traffic issues around servicing/deliveries to the subject pub premises was a key element to refuse permission under ref. D18A/0159, for outdoor seating on the subject site. In the context of the previous permission for a similar development on site (Ref. D20A/0454 (ABP-308200-20)), this issue was resolved via the provision of a loading bay on Beaumont Avenue to the west of the site. It is recommended that a similar condition be attached in the event a grant of planning permission is forthcoming in the subject case.
- 7.3.9. It is noted that the applicant has submitted a delivery schedule demonstrating the deliveries will be staggered throughout the week, this is deemed appropriate as a measure to ensure that delivery vehicles don't queue on the public road to access waiting for the loading bay to be free or park at unauthorised locations. Subsequent supplementary information has been submitted with the appeal response. The owners of the Bottle Tower Pub have reached out to their suppliers and requested that their drivers respect the amenities of neighbourhoods. They are proactive in trying to mitigate against any potential illegal parking. It is submitted that the new boundary wall will help to enforce parking.

- 7.3.10. Again, I note the planning history, the initial refusal of permission on grounds of traffic safety, the one year temporary grant of permission with conditions which have been complied with. There is no current enforcement action on the subject appeal site, according to the PA planning report.
- 7.3.11. Under the current application (D22A/0044) the PA have granted planning permission for a temporary 5 year period. I note the Development Management Guidelines for Planning Authorities, June 2007, which set out that “in the case of a use which may possibly be a “bad neighbour” to uses already existing in the immediate vicinity, it may sometimes be appropriate to grant a temporary permission in order to enable the impact of the development to be assessed, provided that such a permission would be reasonable having regard to the expenditure necessary to carry out the development. A second temporary permission should not normally be granted for that particular reason for it should have become clear by the expiration of the first permission whether permanent permission or a refusal is the right answer”.
- 7.3.12. The abuse / misuse of the loading bay on Beaumont Avenue and hence its unavailability to delivery and collection vehicles serving the Pub, is a matter of lack of enforcement by An Garda Siochana and its traffic core. The owners cannot be held responsible for enforcing traffic laws. It would not in my opinion be reasonable to refuse permission on grounds that it would give rise to a traffic hazard given that the loading bay has been provided on Beaumont Avenue to provide for delivery and collection vehicles serving the pub.
- 7.3.13. The first party have not appealed the decision to grant a temporary permission. Therefore, regard being had to the issues raised and evidence submitted to support abuse of traffic laws I consider that a 5 year temporary permission is appropriate in this instance, should the Board decide planning permission be forthcoming. It is deemed appropriate to limit the duration of permission, for a second time, to allow for monitoring and evaluation of traffic issues, particularly around deliveries

7.4. Impact on Residential Amenity

- 7.4.1. Third party concern has been raised with respect to increased noise and impact on local amenity, proximity of the proposed outdoor seating area to ‘Leighton’ (dwelling) to the eastern boundary, diminished privacy, capacity of the seating area.

- 7.4.2. It is submitted that the applicant has not shown any intention to use the first floor for patrons other than as a function room and the need for an outdoor seating area, considered temporarily appropriate, given covid restrictions is no longer appropriate at this location.
- 7.4.3. No changes to the outdoor sitting area are proposed in terms of extent or distance to boundaries compared to those permitted under Ref. D20A/0454 (ABP-308200-20), planters are also proposed to provide an element of screening, both from a visual and to a limited extent sound terms. As such no significant negative impacts in residential amenity are anticipated subject to certain restrictions in terms of hours of operation and noise, generally in line with Conditions Nos. 4 and 5 of Ref. ABP-308200-20. Use of the first floor is not in my opinion relevant to the nature of the application proposed.
- 7.4.4. Other alterations proposed to the north elevation, including, inter alia, removal of cold store area; relocation of service door; provision of new entrance from the indoor pub premises onto the outdoor sitting area; provision of 7 No. cycle parking spaces for staff and patrons and associated shower and changing facilities; and a covered bin store are not deemed to detrimentally affect the amenity of residents. Similarly, internal alterations to provide a new toilet area are acceptable.
- 7.4.5. All changes proposed are at ground floor, the proposal would not therefore in my opinion impact upon the amenity of adjacent properties by reason of overlooking, overshadowing or overbearing.

7.5. **Visual Impact**

- 7.5.1. Proposed changes to the north side of the pub will be largely screened by the proposed new decorative wall with railings, piers and flowerbeds along Churchtown Road to the north and north west, comprising c. 0.5m high walls, between 1.7m and 1.9m high piers, metal railing and 6ft high planting / screening. Notwithstanding the boundary treatments, I agree with the PA, that the elements proposed on the subject car parking area are not deemed to be of such scale or characteristics to have a negative visual impact.
- 7.5.2. The retention of the fixed sign with stone plinth to the north west corner is visually acceptable.

7.5.3. When considering the proposed development vis a vis the previous situation with a surface car park area addressing Churchtown Road Upper, I agree that the proposed development is deemed to provide a more active interface with the public road and an enhanced streetscape.

7.6. Other Issues

7.6.1. Third party concern has been raised with respect to the current status of area marked 'Existing Outdoor Seating Area', given expiration of planning permission ABP308200-20 / D20A/0454. Also, previous and continuous noncompliance with conditions of planning permission and misuse of the loading bay. Third parties have noted that despite the temporary permission Ref. D20A/0454 (ABP- 308200-20) expiring in December 2021, the outdoor area has not reverted to its previous situation as a car park.

7.6.2. It is however, considered that issues of non-compliance or potentially unauthorised development shall be dealt with via Planning Authority Enforcement Section and are not matters to be considered or determined in the context of the subject application. Enforcement is not a function of An Bord Pleanála. I note the PA report on file sets out that there is currently no planning enforcement action relevant to the subject appeal site.

7.7. Conclusion

7.7.1. Having regard to the Objective 'NC' zoning of the subject site, it is considered that the proposed development, subject to a temporary 5 year permission, is an acceptable form of development and would not adversely impact on the residential amenity of adjacent properties.

7.7.2. In addition, it is considered that the proposed development would not significantly detract from the character of the surrounding area and would be in accordance with relevant policy and the provisions of the Dun Laoghaire-Rathdown County Development Plan 2022 - 2028. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

7.7.3. A second temporary (5) year permission is considered appropriate, in this instance, to allow for monitoring and evaluation of traffic issues, particularly around deliveries.

7.7.4. The abuse / misuse of the loading bay on Beaumont Avenue and hence its unavailability to delivery and collection vehicles serving the Public House is an issue, albeit not one the patrons of the Public House has responsibility to resolve. It would, however, need to be resolved to the satisfaction of the PA prior to a full grant of planning permission.

7.8. **Appropriate Assessment**

7.8.1. The appeal site is not within or adjoining any Natura 2000 site. Having regard to the nature and scale of the proposed development, and the location of the site in a serviced urban area and the separation 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.

8.0 **Recommendation**

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

9.0 **Reasons and Considerations**

9.1. Having regard to the location of the proposed development in an area zoned 'NC', neighbourhood centre, with the objective "to protect, provide for and/or improve mixed use neighbourhood centre facilities" in the Dun Laoghaire Rathdown County Development Plan 2022 - 2028, the modest nature of the proposed change of use of an existing car parking area to outdoor seating and subject to the conditions set out below it is considered that the proposed development would not endanger public safety by reason of traffic hazard or seriously injure the visual or residential amenity of the area and would accord with the zoning objective set out in the current County Development Plan and with the proper planning and sustainable development of the area

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. This planning permission shall cease to have effect five years from the date of this order. The outdoor sitting area shall thereafter return to its previous use as a car park unless planning permission is obtained to extend the hereby permitted use beyond those 5 years.

Reason: To allow the planning authority to monitor the implementation and adherence to the conditions set out in this grant of planning permission.

3. Provision shall be made for a deliveries/loading bay on Beaumont Avenue. Prior to commencement of the use permitted by this grant of permission details of the bay dimensions and road markings shall be submitted to, and agreed in writing with, the planning authority.

Reason: To ensure a satisfactory layout for commercial vehicles in the interest of traffic safety.

4. No music or amplified sound shall be audible outside the premises in such a manner as to cause nuisance to the occupants of nearby property.

Reason: In the interest of amenity

5. The hours of operation shall be between 1200 hours and 2300 hours Monday to Friday and between 1200 hours and 2200 hours on Saturday and Sunday,

Reason: In the interest of the residential amenities of property in the vicinity.

6. All necessary measures shall be taken by the developer to avoid conflict between construction traffic/activities and traffic/road users, particularly pedestrians and cyclists on the R112 Churchtown Road Upper and Beaumont Avenue, during construction works.

Reason: In the interest of road safety.

7. The developer shall prevent any mud, dirt, debris or building material being carried onto or placed on the public road or adjoining properties as a result of the site works and repair any damage to the public road arising from carrying out the works.

Reason: In the interests of orderly development.

Fiona Fair
Planning Inspector

28.02.2023