



An
Bord
Pleanála

Inspector's Report ABP-314122-22

Development	Retention of change of use from restaurant to restaurant with takeaway at existing ground floor premises.
Location	4 Vernon Avenue, Clontarf, Dublin 3
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	WEB 1416/22
Applicant(s)	Nowin Ltd (t/a Sansab)
Type of Application	Retention permission
Planning Authority Decision	Grant, subject to 10 conditions
Type of Appeal	Third Party -v- Decision
Appellant(s)	Brian Hogan
Observer(s)	Sean Hogan Brendan Houlihan Laura Houlihan
Date of Site Inspection	Hugh D. Morrison
Inspector	6 th October 2022

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	4
4.0 Planning History.....	4
5.0 Policy and Context.....	5
5.1. Development Plan.....	5
5.2. Natural Heritage Designations	6
5.3. EIA Screening	6
6.0 The Appeal	7
6.1. Grounds of Appeal	7
6.2. Applicant Response	8
6.3. Planning Authority Response	9
6.4. Observations	9
6.5. Further Responses.....	12
7.0 Assessment.....	12
8.0 Recommendation.....	18
9.0 Reasons and Considerations.....	18
10.0 Conditions	19

1.0 Site Location and Description

- 1.1. The site is located towards the foot (southern end) of Vernon Avenue (R808) just before its junction with Clontarf Road (R807). Retail, commercial, and medical uses cluster around this junction, including a considerable number of eateries with sit-in and takeaway options. This site lies on the western side of Vernon Avenue in a parade of two storey buildings. Limited on-street parking is available, and it is subject to pay and display and permit arrangements on Mondays to Saturdays between 07.00 and 19.00. A public off-street car park is also available on the seaward side of Clontarf Road.
- 1.2. The site lies in a mid-row position within a two-storey retail and commercial parade on the western side of Vernon Avenue. This site comprises the ground floor of No. 4 (68 sqm) and the adjoining shared yard to the rear, which is accessed to the north via gates off Churchgate Avenue. The western side of Vernon Avenue in front of the parade is the subject of double yellow lines. Churchgate is a narrow cul-de-sac with no turning head, which serves the local parish church at its western extremity. Its carriageway is effectively 1.5 lanes in width, and it is the subject of double yellow lines on its northern side where there is also a public footpath. A row of cottages accompanies the northern side of the cul-de-sac, the first of which is a doctor's surgery. Garages, an art studio, and a parish hall accompany the southern side. Garage doors bear no parking/fire exit signage.

2.0 Proposed Development

- 2.1. The proposal is for the retention of a change of use of the ground floor of No. 4 Vernon Avenue from a restaurant to a restaurant with a takeaway.

3.0 Planning Authority Decision

3.1. Decision

Retention permission was granted, subject to 10 conditions, several of which are cited below:

2. *The takeaway element shall only operate in association with the restaurant use and shall not operate if the restaurant element is not open to the public. The restaurant and takeaway shall close by 10pm Monday to Sunday.*

Reason: In the interest of orderly development and general amenities.

3. *A scheme shall be submitted to and approved in writing by the Planning Authority for the effective control of fumes and odours from the premises. This scheme shall be submitted no later than eight weeks following the final grant of permission. The scheme shall be implemented to the satisfaction of the Environmental Health Officer of Dublin City Council and thereafter permanently retained.*

Reason: In the interest of public health and amenity.

4. *Any and all food preparation and storage shall be contained fully inside the commercial unit.*

Reason: in the interest of public health and amenity.

5. *The development shall comply with all the conditions of 3909/19 save as amended by this permission.*

Reason: In the interest of orderly development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

See decision.

3.2.2. Other Technical Reports

- Dublin City Council:
 - Drainage: No objection, standard drainage advice given.

4.0 Planning History

Site:

- 3909/19: Change of use from retail unit to restaurant: Permitted subject to conditions, including the following ones:

5. Before the use hereby permitted commences, a scheme shall be submitted to, and approved in writing by the Planning Authority for the effective control of fumes

and odours from the premises. The scheme shall be implemented before the use commences and thereafter permanently retained.

Reason: In the interest of public health and amenity.

8. The restaurant / café shall not provide a food take away service without a prior grant of planning permission.

Reason: In order to clarify the scope of this permission.

- E0226/21: Non-compliance with Condition 8 attached to 3909/19.
- 0215/21: Exemption certificate refused as change of use is development that is not exempted development.
- Compliance submission with Condition 5, cited above, was made on 10/08/21 and further information was submitted on 08/03/22. Approval was given on 16/10/22.

First floors of Nos 4 & 4A Vernon Avenue:

- 4489/07: Change of use from residential to commercial: Permitted.

5.0 Policy and Context

5.1. Development Plan

Under the Dublin City Development Plan 2016 – 2022 (CDP), the site is shown as lying within an area that is zoned Z3, wherein the objective is “To provide for and improve neighbourhood facilities.” Under Z3, restaurants are permissible in principle and takeaways are open for consideration.

Section 16.25 of the CDP addresses takeaways as follows:

In order to maintain an appropriate mix of uses and protect night-time amenities in a particular area and to promote a healthier and more active lifestyle, it is the objective of Dublin City Council to prevent an excessive concentration of take-aways and to ensure that the intensity of any proposed take-away is in keeping with both the scale of the building and the pattern of development in the area.

The provision of such facilities will be strictly controlled, having regard to the following, where appropriate:

- *The effect of noise, general disturbance, hours of operation, litter and fumes on the amenities of nearby residents.*
- *The need to safeguard the vitality and viability of shopping areas in the city and to maintain a suitable mix of retail uses.*
- *Traffic considerations.*
- *The number/frequency of such facilities in the area, particularly in close proximity to schools.*
- *That the operators come to a satisfactory arrangement with Dublin City Council in relation to litter control.*
- *The need to integrate the design of ventilation systems into the design of the building.*
- *That appropriate cleansing/anti-litter measurements be agreed with Dublin City Council prior to the granting of planning permission.*
- *That all take-aways provide and maintain a suitable waste bin outside their premises during hours of business.*
- *The number and frequency of such facilities within a 1 km radius of the proposed development.*
- *The context and character of the street where the aim is to maintain and improve the vitality of the shopping experience by encouraging a range of convenience and/or comparison retail shops.*

5.2. Natural Heritage Designations

Portions of Dublin Bay are the subject of European designations.

5.3. EIA Screening

The proposal is for a change of use only, which is not a class of development for the purpose of EIA.

6.0 The Appeal

6.1. Grounds of Appeal

Brian Hogan of 190 Clontarf Road

- Under the Z3 zoning of the site, takeaways are not permissible in principle.
- Takeaways pose a risk to public health, e.g., obesity in children. The site is within easy range of 3 schools, i.e., 130m, 440m, and 770m. There are already 10 takeaways in the vicinity of the site. While the appellant does not accept that the 4pm opening time of the applicant's takeaway removes the risk to school children, he considers that it should have been conditioned.
- The takeaway is unauthorised. It also operates too intensively with the result that activities cannot be accommodated wholly within the unit but spill out onto the rear yard, which is used for storage and even food preparation.
- The takeaway is a "bad neighbour" insofar as on a daily basis it is responsible for noise, fumes, and smoke. In this respect, attention is drawn to the 3 very large fans that point directly into the appellant's rear garden. They were not shown in the drawing submitted under 3909/19, and they have not been authorised subsequently on foot of a compliance submission pursuant to Condition No. 5. Likewise, the noise parameters set out under Condition No. 7 have not been adhered to.
- The submitted application fails to provide details of the type, scale, and duration of the takeaway.
- The appellant engages with Section 16.25 of the CDP as follows:
 - Concentration and intensity: As indicated above, there is an over concentration of takeaways in the locality and the scale of the applicant's is such that it dominates its immediate vicinity.
 - Environmental impacts: The takeaway operates between 12.00 and 22.00 daily. It generates the impacts cited above and it should cease until an approved ventilation system is in-situ.

- Vitality and viability: Again, the over concentration of takeaways is relevant.
- Traffic: Customers' cars and delivery vans cause congestion on Churchgate Avenue, and they block neighbours' entrances/exits.
- Proximity of schools: See the points cited above.
- Ventilation: The existing ventilation systems are unauthorised and the proposed ones, under the compliance submission, lack technical detail. They would also fail to be integrated into the design of the building and so these systems would be visually obtrusive.
- Number of takeaways: See the points cited above.
- Streetscape and usage: A wider variety of uses is needed.
- The appellant also engages with Section 15.14.7.3 of the draft CDP for 2022 – 2028. Essentially the same concerns are reiterated, except for a new emphasis on set down areas and servicing bays, dedicated ones of which are absent.

6.2. Applicant Response

- Zoning: The applicant opened its restaurant during lockdown, when planning regulations were relaxed to allow for a takeaway service to be provided. This service has continued and is important to the viability of the business, but it does not resemble a traditional takeaway, e.g., it does not lead to queues and meals are eaten at home and so littering of the street is not an issue.
- The restaurant/takeaway serves quality food, which does not pose a health risk. Those engaging in recreation and those on diets are numbered amongst its customers.
- Attention is drawn to the applicant's larger premises at 64 Upper Drumcondra Road and to the storage facilities there. A Company van provides a transport link to the 4 Vernon Avenue.

Attention is drawn to the good neighbourly relations that the applicant enjoys with the resident above and the commercial users of the adjoining units on

either side. Attention is also drawn to the fact that Churchgate Avenue is a public road.

The applicant has made a compliance submission to the Planning Authority and so it is actively seeking to resolve the ventilation issues that have been troublesome to the appellant.

For the record the applicant's opening times are as follows:

16.00 – 21.30 Monday to Thursday

12.30 – 22.00 Friday

16.00 – 22.00 Saturday

16.00 – 21.30 Sunday

The reference to smoke is wholly placed.

- Anti-social behaviour is not an issue as the customers either dine on the premises or at home.

The applicant operates a waste segregation regime in the gated rear lane. Collections occur on a regular cycle. The lane itself was improved by the applicant, e.g., it was cleaned up, resurfaced and provided with emergency lighting.

The appellant unfairly attributes traffic congestion to the applicant's business, when in reality Churchgate Avenue serves other local business in the vicinity, too.

6.3. Planning Authority Response

None

6.4. Observations

(a) Sean Hogan of 191 Clontarf Road

- Neighbour nuisance arises from traffic congestion on Churchgate Avenue and littering.
- Sidewalk tables and chairs obstruct pedestrians.

- The ventilation system continues to disperse odours towards local residents.
- The amenity of what was a peaceful and quiet Avenue is disrupted by the applicant's takeaway.

(b) Brendan Houlihan of 189 Clontarf Road

- Notwithstanding the expiration of the emergency de-exemption of takeaways, the applicant's restaurant has continued to provide a takeaway service in contravention of Condition No. 8 attached to 3909/19.

- The vehicular entrance to the observer's property, which comprises a dental surgery and an apartment is from Churchgate Avenue. This entrance is denoted by signage, which states that it needs to be kept clear as it functions as a fire exit. Nevertheless, the applicant's delivery drivers frequently block it.

Churchgate Avenue has a narrow carriageway, which has double yellow lines along its northern edge. A footpath accompanies this edge, and it adjoins a row of cottages, the first two of which, Nos. 2 & 3, are in use as a doctor's surgery. These two are opposite the observer's vehicular entrance and the gates to the yard that serves the applicant's business. Given the narrowness of the carriageway and attendance at the gates by delivery vehicles, manoeuvres on the Avenue can be hazardous, e.g., the mounting of the footpath outside the doctor's surgery and reversing onto Vernon Avenue.

Contrasting patterns are observed between the practices of delivery drivers who serve other takeaways in the vicinity of the site and the applicant's delivery drivers. The former park either in designated spaces on Vernon Avenue or Clontarf Road or in the nearby public car park. The latter use Churchgate Avenue. These patterns are replicated in the case of deliveries to the respective takeaways.

- Odours from the applicant's kitchen are strong and they occur from lunchtime on. They do not disperse quickly being of used heated cooking oil and they can be supplemented by odours from food waste in the rear yard. The ventilation fans discharge horizontally in the direction of rear gardens, including the observer's. They are noisy. Consequently, use of his garden is

constrained, e.g., washing is hung out only in the mornings, and its amenity value for relaxing and entertaining has been undermined.

The ventilation fans were not shown in the plans submitted under 3909/19 and they have not been authorised. That they are not directed upwards and away from neighbours' gardens is the key issue. Other eateries in the vicinity generate occasional cooking odours. However, the applicant is responsible for the significant dis-amenity that is arising.

- The ventilation fans generate a low level of noise that rises when the kitchen is busy and continues through to closing time and occasionally thereafter.

Noise also emanates from the kitchen illustrating the absence of any mitigation.

(c) Laura Houlihan, Clontarf Dental Practice, 189 Clontarf Road

The observer runs a dental practice from her property. She supports the appellant's appeal.

On 31/05/21 she submitted an enforcement enquiry to the Planning Authority over the applicant's takeaway, which was acknowledged. She has not been advised subsequently of its progress.

The applicant is operating a high-volume takeaway in contravention of Condition No. 8 attached to 3909/19. The impacts arising upon her dental practice and the residents of her property are outlined below.

- The applicant's website appears to indicate a takeaway service only, i.e., no dine option is flagged.
- The vehicular entrance to the observer's property is from Churchgate Avenue, which is a narrow laneway with no turning facilities. This entrance is clearly denoted as a fire exit and yet it is frequently blocked by the applicant's delivery drivers. The narrowness of the laneway and the incidence of vehicles blocking it results in hazardous manoeuvres, e.g., the mounting of the footpath and reversing onto Vernon Avenue.
- Odours generated by the applicant's kitchen are strong and unpleasant. They do not disperse quickly, and they increase in intensity as the day progresses.

These odours can be accompanied by ones from food waste in the rear yard. Issues arising are as follows:

- Clinical gowns are changed between patients. Consequent washing and drying is problematic, as these gowns cannot be dried in a tumble dryer, and the aforementioned odours militate against drying outside.
- The use of the rear garden by staff during breaks and residents is undermined.
- Other cooking odours from eateries in the vicinity of the site feature occasionally, but are unproblematic, due to vertical discharge. By contrast, odours from the applicant's kitchen discharge horizontally at first floor level directly towards rear gardens to the west including the observer's.
- The existing ventilation fans are unauthorised, and they are in contravention of Condition No. 5 attached to 3909/19.
- Noise from the ventilation fans arises constantly. While its volume is low when business is slow, at busy times it rises, and it can be heard indoors.
- While trade effluent is not supposed to enter the public sewer, the observer reports an increase in drain clearance since the applicant's business opened.
- While not currently an issue, excess bagged waste has been left in Churchgate Avenue, where it has caused an obstruction and posed a health and safety risk. Concern is expressed that this issue could arise again.

6.5. Further Responses

None

7.0 Assessment

- 7.1. I have reviewed the proposal in the light of the Dublin City Development Plan 2016 – 2022 (CDP), relevant planning history, the submissions of the parties and the observers, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Zoning and land use,
- (ii) Amenity,
- (iii) Traffic, access, and parking,
- (iv) Water, and
- (v) Appropriate Assessment.

(i) Zoning and land use

- 7.2. The site lies within an area that, under the CDP, is zoned Z3, wherein the objective is “To provide for and improve neighbourhood facilities.” Under Z3, restaurants are permissible in principle and takeaways are open for consideration.
- 7.3. Under 3909/19, permission was granted for the ground floor of No. 4 Vernon Avenue to be used as a restaurant, subject to conditions, one of which, Condition No. 8, requires that planning permission be obtained for any food takeaway service. During lockdown, effective prohibitions on food takeaway services were relaxed, and the applicant provided such a service. As this service proved popular, it has been continued since lockdown ended. The applicant is therefore in breach of Condition No. 8 and so the unauthorised food takeaway service is the subject of the current application. Its proposal is to retain the change of use from a restaurant to a restaurant with a takeaway.
- 7.4. Observer (c) questions whether a restaurant use is presently being operated as distinct from the takeaway use. The applicant’s website is referenced in this respect. I have checked this website and I have observed that an “eat in” option is signalled. During my site visit, I also observed the presence of tables and chairs for customer use on the premises. Clearly, if an exclusively takeaway use was occurring, then this would need to be the subject of a separate application.
- 7.5. Section 16.25 of the CDP addresses takeaways. This Section begins by stating the following:

In order to maintain an appropriate mix of uses and protect night-time amenities in a particular area and to promote a healthier and more active lifestyle, it is the objective of Dublin City Council to prevent an excessive concentration of take-aways and to ensure that the intensity of any proposed take-away is in keeping with both the scale of the building and the pattern of development in the area.

It then proceeds to cite factors of relevance in assessing whether specific takeaway proposals would be appropriate. Some of these factors overlap with the subjects discussed below under subsequent headings of my assessment. Some however relate to questions of land use and so I will interact with them here.

- 7.6. Section 16.25 is concerned about public health and the vitality and viability of shopping areas. An over concentration of takeaways is, therefore, viewed as being inappropriate, especially if they are near to schools. The underlying assumption appears to be that takeaways are traditional takeaways, i.e., ones that are characterised by the use of deep fat fryers.
- 7.7. The appellant refers to the above cited concerns. The applicant has responded by stating that its food is consistent with a healthy diet/active lifestyle and so the subject takeaway service should not be viewed as a traditional takeaway. It also states that, as the takeaway service does not typically open on weekdays before 16.00, its use by school children is not significant. The appellant accepts this, but states that this opening time should have been conditioned by the Planning Authority.
- 7.8. During my site visit, I observed that the cluster of retail/commercial uses at the foot of Vernon Avenue include a high proportion of eateries, typically restaurants with takeaway services. The case planner conducted a survey of these 10 eateries, including the applicant's one, and the hours during which any takeaway service operates. The findings of this survey are set out in his report, and they remain relevant. In the light of my own observations and these findings, I consider that the vitality and viability of the cluster of retail/commercial uses depends largely upon these eateries and so the scenario presented by this cluster is not that of a shopping area within which an over concentration of traditional takeaways would undermine convenience and/or comparison retail goods shopping.
- 7.9. I conclude that, under the Z3 zoning, the retention of the takeaway use would not raise land use concerns, such as those cited by Section 16.25 of the CDP.

(ii) Amenity

- 7.10. Under application 3909/19, the applicant was granted permission for the restaurant use. Under the current application it seeks retention permission for the additional food takeaway service.

- 7.11. The same kitchen serves both the authorised and the unauthorised uses. Insofar as this kitchen is vented by existing flues that discharge horizontally to the atmosphere, the attendant noise, fumes, and odours would arise in conjunction with the former and the latter uses. The appellant and the observers object to these environmental impacts that affect their homes and workplaces to the west of the site. They have outlined in detail the dis-amenity that has ensued.
- 7.12. Condition No. 5 attached to the aforementioned permission requires that details of the scheme for controlling fumes and odours be approved by the Planning Authority prior to the commencement of the restaurant use. Such approval was not obtained by the applicant for the existing flues. However, a compliance submission has been made for a replacement scheme that would discharge vertically to the atmosphere. Details of this scheme are available on the Planning Authority's website, and it was approved on 22nd October 2022, on the recommendation of Environmental Health. *Prima facie*, this replacement scheme, once installed, should mitigate the environmental impacts that have resulted in dis-amenity to neighbours.
- 7.13. The appellant states that the applicant's premises are used too intensively. Alleged evidence of this is cited with respect to occasional use of the shared yard to the rear of the applicant's premises for food preparation and, formerly, the storage of excessive bagged waste in Churchgate Avenue.
- 7.14. The applicant has commented to the effect that it has undertaken improvements to the shared yard and that it is used to store waste in a segregated manner with attendant regular collections.
- 7.15. Clearly, any use of the shared yard for the preparation of food would be inappropriate and, again, any such occurrences would be capable of being addressed under other legal codes beyond that of planning.
- 7.16. Any suggestion of anti-social behaviour is addressed by the applicant to the effect that, as customers either dine in or eat at home, this does not arise. Likewise, as customers availing of the food takeaway service tend to eat at home, the risk of littering in the vicinity of the site is slight. During my site visit, I observed several litter bins sited in public footpaths in the vicinity of the site.

7.17. I conclude that, provided the approved replacement kitchen ventilation system is installed, the use of the premises as a restaurant with a food takeaway service would be compatible with the amenities of the area.

(iii) Traffic, access, and parking

7.18. Under the permitted restaurant use, the opening hours are not controlled by condition. Nevertheless, the applicant has stated that the opening hours of the restaurant and food takeaway service are as follows:

16.00 – 21.30 Monday to Thursday

12.30 – 22.00 Friday

16.00 – 22.00 Saturday

16.00 – 21.30 Sunday

(The appellant states that these hours should have been conditioned by the Planning Authority. I agree, insofar as the daily closing time is concerned).

7.19. If the premises were run only as a restaurant, then the traffic generated by customers would be of a lower order than the existing situation wherein they are run as a restaurant with a food takeaway service, which entails both customers collecting food in-person and deliveries from the premises to customers' homes. (Clearly, under either scenario, deliveries of goods to the premises would occur).

7.20. The appellant and the observers express concern over the traffic that is generated by the dual use of the premises, especially insofar as it affects Churchgate Avenue, which serves the gated shared yard to the rear of these premises. The observers have properties that have vehicular accesses/a fire exit off the southern side of this Avenue, and they testify to how these accesses/this exit are obstructed/blocked by vehicles that are parked in front of them. They also testify to the congestion that occurs on it, due to on-street parking, its narrow 1.5 lane width, and the absence of a turning head at the extremity of the cul-de-sac. Furthermore, the applicant's drivers, who make deliveries from the premises, tend not to use formal parking places on Vernon Avenue, but Churchgate Avenue, in contrast to equivalent drivers for other food takeaway services in the locality.

7.21. During my site visit on Thursday 6th October in the early afternoon, I observed a high incidence of parking on Churchgate Lane, the foot of Vernon Avenue, and Clontarf

Park, the street opposite the premises to the east. I also observed vehicles having to mount the public footpath on the northern side of Churchgate Lane to manoeuvre past parked vehicles. The majority of cottages abutting this footpath are in residential use, but those at Nos. 2 & 3 are in use as a GP's surgery. Clearly, the width and configuration of this Avenue are such that there are inherent hazards to its use, e.g., the scope for conflict between vehicles mounting the public footpath and pedestrians is of particular concern.

7.22. I note from the GP's website that surgery hours are up until 18.00 on Mondays, Tuesdays, and Thursdays and up until 17.00 on Wednesdays and Fridays. I also note that the fire exit on the southern side of Churchgate Avenue serves a dental practice, the website for which indicates that surgery hours are up until 17.30 Mondays to Thursdays and 17.00 on Fridays. Given that peak evening traffic tends to be between 17.00 and 19.00, too, I consider that it would be reasonable to ease the pressure on Churchgate Avenue by requiring that motorised vehicle borne deliveries from the applicant's premises as part of its food takeaway service commence at 19.00. This time would coincide with the commencement of unrestricted on-street parking on Vernon Avenue and so convenient alternative parking options for delivery drivers would be available.

7.23. I conclude that traffic generated by the applicant's food takeaway service exceeds that which would arise were only a restaurant to be run. I conclude, too, that the additional pressure arising from deliveries as part of this service on Churchgate Avenue should be eased by requiring that they do not occur before 19.00 daily.

(iv) Water

7.24. The subject premises are serviced by the public water mains and the public foul and stormwater sewerage system.

7.25. Observer (c) observes that drain clearance in the vicinity of the site has occurred with greater frequency since the applicant's business opened. She therefore alleges that trade waste may be being discharged. Such discharges would be addressed under other legal codes beyond that of planning.

7.26. The OPW's website www.floodinfo.ie does not show the site as being the subject of any formally identified flood risk.

7.27. I conclude that the proposal raises no water issues that can be addressed under planning.

(v) Appropriate Assessment

7.28. The site is not in any European site. It is a fully serviced inner suburban site. Under the proposal, a change of use of an existing ground floor is proposed for retention only. No Appropriate Assessment issues would arise.

7.29. Having regard to the nature, scale, and location of the proposal, and proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposal 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

That permission be granted.

9.0 Reasons and Considerations

Having regard to the Z3 zoning of the site and Section 16.25 of the Dublin City Development Plan 2016 – 2022 and the pattern of uses in the vicinity of the site, it is considered that, subject to conditions, the retention of the restaurant and food takeaway service would be appropriate under the zoning and from a wider land use perspective. Subject to the installation of an approved replacement ventilation system, the food takeaway service would be compatible with the amenities of the area. Subject to the restriction of food takeaway service deliveries by motorised vehicles to after 19.00 hours, traffic generated by this service would be capable of being accommodated without undue pressure upon the local road network and its associated parking provision. No water or Appropriate Assessment issues would arise. The proposal would thus accord 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>The use shall comply with conditions attached to the permission granted to application reg. no. 3909/19, unless amended by the permission hereby granted.</p> <p>Reason: In the interest of clarity.</p>
3.	<p>The food takeaway service shall only operate in conjunction with the restaurant, and it shall not operate if the restaurant is not open to the public.</p> <p>Reason: In the interest of clarity.</p>
4.	<p>Insofar as the food takeaway service entails a motorised vehicle borne delivery service from the premises, this delivery service shall only operate after 19.00 hours daily until closing time.</p> <p>Reason: In the interests of good traffic management and road safety.</p>
5.	<p>Closing time for the restaurant and food takeaway service shall be no later than 22.00 hours daily.</p> <p>Reason: In the interest of residential amenity.</p>

Hugh D. Morrison
Planning Inspector

3rd November 2022