



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314509-22

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<b>Development</b>	Amalgamation of 2 units, change of use to licensed premises with restaurant
<b>Location</b>	Charlemont Street/Tom Kelly Road, Dublin 2, D02 P489
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	3275/22
<b>Applicant(s)</b>	Charlemont Regeneration Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Charlemont Regeneration Limited
<b>Observer(s)</b>	None
<b>Date of Site Inspections</b>	8 <sup>th</sup> January 2024 (daytime) & 8 <sup>th</sup> February (evening)
<b>Inspector</b>	Joe Bonner

## 1.0 Site Location and Description

- 1.1. The two glass fronted units that make up the site, are located on the ground floor of Block 2 of the recently completed five block Charlemont Square Urban Regeneration Project that lies within a larger urban block bound to the south by Charlemont Mall and the Grand Canal, to the west by South Richmond Street, to the east by Charlemont Street and to the north by Harcourt Street.
- 1.2. Pedestrian access to the site is available from three different entrances to the north, west and south off Charlemont Street, while two further entrances are available from the west from South Richmond Street. These entrances also serve as vehicular entrances with the exception of the pedestrian street (Charlemont Walk) along the west of the site, that separates Blocks 1 and 2.
- 1.3. The main façade of the units face south onto the hard surfaced Square that is landscaped with a number of trees, a surface level water fountain located close to the red lined site boundary and raised planter beds with integrated seating.
- 1.4. Within the square, Krewe restaurant with a bar occupies the entire ground floor frontage of Block 4 to the south, while Tesco occupies the unit to the immediate west in Block 1 and a co-working office suite is located immediately north on Charlemont Walk. A management/concierge suite is also located on the western end of the square.
- 1.5. Block 1 and 2 are entirely commercial, with the upper floors of Block 2 occupied as offices, while the upper floors of Block 1 are not occupied. Blocks 3, 4 and 5 are a mix of commercial at ground floor with residential above, with the closest residential units to the east being located at first floor in Block 4, c15m to the south, immediately above Krewe restaurant.
- 1.6. The proposed outdoor seating area would be located partially under the footprint of the building as it overhangs a setback ground floor façade.

## 2.0 Proposed Development

- 2.1. The proposed development will consist of the amalgamation of a permitted restaurant (360sqm) and a permitted retail unit (156sqm) and a change of use to a licensed premises with restaurant, reconfiguration of the internal layout to include a

kitchen, staff area, and WC facilities, the provision of an outdoor seating area and 6 no. illuminated signage zones.

- 2.1.1. The application was accompanied by a planning statement, a design statement and specifications for the roof plant relating to the proposed commercial kitchen.
- 2.1.2. The response to the request for further information included information on the proposed occupant of the public house/restaurant, a 'Bar and Outdoor Seating Management Plan', a 'Noise Assessment' and a 'Façade Acoustic Specification' for Blocks 1, 3 and 4.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. On the 9<sup>th</sup> of August 2022, Dublin City Council issued a decision to refuse permission for two reason, which stated:
  - 1 Having regard to Sections 16.29 & 16.32 and Policy CHCO28 of the Dublin City Development Plan 2016-2022, it is considered that the scale, capacity and hours of operation of the proposed licensed premises with restaurant would give rise to considerable noise and general disturbance which would have a detrimental impact on the amenities of existing and future residents in the Charlemont Square development and environs and would thereby be contrary to the proper planning and sustainable development of the area.
  2. The proposal including the large external seating area would give rise to an unacceptable level of disturbance and would generate noise pollution from and at the boundaries of the proposed establishment impacting on nearby residential amenity, environmental quality and the established residential character of the Charlemont Square development. On balance, the proposed development would undermine the character of the subject site, the streetscape and the amenities of nearby residents, would result in an undesirable precedent for similar type development, would depreciate the value of property in the vicinity and, as such, would be contrary to the proper planning and sustainable development of the area.

## 3.2. Planning Authority Reports

### 3.2.1. First Planning Officer's Report

- Opening hours would be 7:00am to 11:30pm Monday to Thursday and 7:00am to 12:30am Friday and Saturday. The use of the outdoor seating area would be restricted to 10:30pm.
- The 130sqm external space could accommodate up to 80 people and is considered excessive considering neighbouring residential units.
- Signage can be addressed by condition.

### 3.2.2. The following further information was sought:

- Provide details of how the premises would be operated including the type of food served, hours when food would be available to order and whether or not an ancillary take-away service would be provided.
- Address concerns about the potential for a superpub and demonstrate a restaurant and licensed bar would not impact on the residential amenity afforded to neighboring properties.

### 3.2.3. Other Technical Reports

- EHO – Air Quality Monitoring and Noise Control Unit – No details provided with respect to the outdoor seating area and the impact noise from patrons may have on occupiers of noise sensitive premises in the area. This could be sought through further information, and additional details can be provided in this regard. If permission were to be granted, conditions should be attached requiring 1) the preparation of a construction management plan, 2) the control of noise levels and 3) control of odours and fumes from the premises.
- Drainage – No objection subject to conditions.

### 3.2.4. Second Planning Officer's Report

- The report dated the 8th of August 2022 recommended a refusal of permission for two reasons, consistent with the decision of the planning authority.
- It summarised the applicant's response, including that:

- BrewDog would occupy the premises and 50% of sales would be food.
- The principle of outdoor seating is already established as part of the permitted restaurant.
- The noise assessment concluded that the risk of noise nuisance at sensitive locations identified in blocks 3 and 4, is low.

3.2.5. The planning officer's assessment of the response noted:

- Concerns remain that the proposal would be classified as a super pub and would be injurious to the residential amenities of Charlemont Square and surrounding residential areas.
- The applicant does not adequately demonstrated that the development would not be detrimental to the residential amenity, environmental quality or the established character of the area.
- There are grave concerns over the scale of the operation resulting from the proposed areas of operation, external seating, take away service up until 10:00pm including nuisance of delivery bikes etc. in addition to the quantum of diners, visitors and staff.
- The development, taking up extensive frontage among multiple elevations, would be highly visible, would be a prominent operator and would constitute a superpub which should be discouraged.
- It is likely a licensed premises of this scale at this location would have a detrimental impact on the residential character and amenity of Charlemont Square and the local area and should be refused.
- Section 16.32 of the Development Plan cites a need to strike an appropriate balance between the role of entertainment uses and the protection of amenities of residents from an over concentration of late night venues.
- Concerns exist about the cumulative impact of the proposed development with existing late night venues in close proximity along Harcourt Street and on Camden Street.
- Despite the operators commitment to operating a well-managed business, it is envisaged a licensed premises of this scale is likely to generate substantial

noise pollution, including potential anti-social behaviour and littering, from persons entering and exiting the premises, the external seating and the ancillary take-away service.

- The proposed mitigation measures including ceasing the use of the external seating after 10:00pm and locating the collection point for takeaways inside the building would appear inadequate and the proposal is likely to have a detrimental impact on the amenity of nearby residents.
- On balance, and the potential for an unacceptable level of disturbance in the area, the proposal would result in an undesirable precedent for further such developments and would depreciate the value of property in the vicinity. It would be contrary to Policy Sections, 16.29 and 16.32 of the City Development Plan 2016-2022.

### **3.3. Prescribed Bodies**

Submissions were invited from Irish Water, the National Transport Authority (NTA) and Transport Infrastructure Ireland (TII), but none were received.

### **3.4. Third Party Observations**

A third party submission was received from Councillor Mannix Flynn, requesting that the planning authority refuse permission, and making the following comments:

- The proposal is for a 7 day licenced super pub and restaurant with more than 700 sqm of space including outdoor space, in a primarily residential area.
- The redevelopment of this area was subject to negotiation and agreements with the local residents and community, and while much of what was agreed has been delivered, there have been many amendments including the removal of the proposed cinema.
- Residents are already faced with constant noise pollution, privacy invasion and outright disregard for their concerns.
- The area is already over saturated with licensed premises, restaurants and cafes and much of the anti-social behaviour emanates from persons using these facilities.

- If this development is permitted, drunken revelry in the area will get worse and existing and future residents will not be able to enjoy their homes.
- Residents have asked Cllr Flynn to express that they have no issue with the proposed restaurant, but that the current proposal is unacceptable.
- There are plenty of opportunities for outdoor drinking and dining very close to the site, but this proposal would be catastrophic and detrimental to the lives of many residents in the community.

## 4.0 Planning History

### Application Site

4.1. The overall Charlemont Square site has a substantial planning history that is set out in the planning officer's reports. This section addresses the original application and relevant amendment applications, that are referred to in the public notices.

- **P. A. Reg. Ref. 3742/10 (ABP Ref. PL29S.238212)** – Permission granted by the Board on the 9<sup>th</sup> of May 2011 for a 'mixed-use regeneration project including new public street, retail units, offices, restaurants, cinemas, sports centre and re-housing existing community.

4.2. The following amendment applications are referenced in the public notices:

- **P. A. Reg. Ref. 2286/12 (ABP Ref. PL.240620)** – Permission granted by the Board on the 29<sup>th</sup> of April 2013 for 'amendments to PL29S.238212, Block 2, to include a reduction in ground floor retail floorspace by 18sqm'.
- **P. A. Reg. Ref. 4443/16** – Permission granted on the 5<sup>th</sup> of July 2017 for amendments to Blocks 1, 2, 4 and 5, including the omission of the approved cinema; a reduction and changes to retail, café, restaurant and office floorspace.
- **P. A. Reg. Ref. 4152/17** – Permission granted on the 30<sup>th</sup> of January 2018 for 'amendments solely to the previously permitted basement levels'.
- **P. A. Reg. Ref. 4562/18** – Permission granted on the 19<sup>th</sup> of March 2019 for 'amendments to Block 2 to include a ground floor reconfiguration to facilitate new lifts and stairs and a reduction in the restaurant floor area.

- **P. A. Reg. Ref. 4707/18** – Permission granted on the 28<sup>th</sup> of March 2019 for ‘amendments to Block 2 including Ground Floor addition of a goods lift between basement and ground floor serving the restaurant and retail Unit 1, reorganisation of opening on the west elevation to include bi-fold doors to open out onto central square from the retail space and changes in floor areas in the restaurant from 385sqm to 358sqm and retail from 400sqm to 325sqm.
- **P. A. Reg. Ref. 2178/20** – Permission granted on the 30<sup>th</sup> of June 2020 the change of use of the unit located at the south eastern corner (169sqm) of Block 2 from approved retail to commercial as part of the approved ground floor office-use.

## 5.0 Policy Context

### 5.1. Dublin City Development Plan 2016-2022

- 5.1.1. During the period when the application was under consideration by the Planning Authority and the decision to refuse permission was issued on the 4<sup>th</sup> of May 2022, the relevant Development Plan was the Dublin City Development Plan 2016-2022, which has now been superseded by the Dublin City Development Plan 2022-2028.

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

- 5.2.1. The Dublin City Development Plan 2022-2028, came into effect on the 14<sup>th</sup> of December 2022. The site is zoned 'Z10 – Inner Suburban and Inner City Sustainable Mixed-Uses', the objective for which is 'to consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses'. The primary uses supported in Z10 are residential, office and retail, with ancillary uses also facilitated where they deliver on the overall zoning objective. Permissible uses include 'public house' and 'restaurant', while 'take-away' is open for consideration.
- 5.2.2. Section 7.5.7 Evening and Night Time Economy states that 'evening and night-time economy uses contribute to the vitality and vibrancy of the city centre and contributes positively to the visitor experience and local economy.' It includes policies CCUV35 'Night Time Economy' and CCUV36 'New Development'.



- 5.2.3. Section 9.5.8 'Noise Pollution' includes objectives SIO 23 - Dublin Agglomeration Environmental Noise Action Plan and SIO24 - Noise Monitoring and Enforcement.
- 5.2.4. Section 15.9.16.3 refers to noise impact assessments, noise maps and a noise action plan prepared by Dublin City Council, as well guidance for noise reduction in buildings.
- 5.2.5. Section 15.14.12 states 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.
- 5.2.6. Sections 12.5.3 and 12.5.4 provide that public houses are part of the range of cultural facilities that is the lifeblood of the city, and as the city grows there is also a need for the cultural offer to grow.
- 5.2.7. Section 15.14.12 'Night Clubs/Licensed Premises/Casinos/Private Member Clubs' states planning applications need to strike an appropriate balance between the role of entertainment users and the economy of the city, the protection of amenities of residents from an over concentration of late-night venues and noise emanating from the boundaries of these establishment.
- 5.2.8. Section 15.14.12 sets out matters that shall be taken into account by the planning authority in assessing planning proposals for public houses, which are:
- Hours of operation and the amenity of neighbouring residents and occupiers.
  - Traffic management.
  - Signage, shop frontage treatment and impact on streetscape.
- 5.2.9. Section 15.14.7.2 sets out that the following will be taken into consideration , in respect of applications for restaurants:
- The effect of noise, general disturbance, hours of operation and fumes on the amenities of nearby residents.
  - Traffic considerations and waste storage facilities.
  - The number/frequency of restaurants and other retail services in the area.
  - The contribution to the vitality and viability of the area.

5.2.10. In addition to the above, section 15.17.4 ‘Outdoor Seating and Street Furniture’ provides that in assessing applications for outdoor furniture, the planning authority shall have regard to the following:

- Size, location and visual impact.
- Concentration of existing street furniture in the area.
- Impact on the character of the streetscape.
- Litter control and ventilation

5.2.11. Section 15.14.7.3 provides that ‘Fast Food/Takeaways’ will be strictly controlled, having regard to impacts including on the amenities of nearby residents and that new outlets will not be permitted within 250m of school sites.

5.2.12. Section 15.14.7.4 ‘Noise, Odour, Ventilation for Restaurant / Café / Take – Away’ states noise associated with the use of a restaurant / take away should be minimised to ensure no overspill to street level occurs and that planning applications should include an engineering statement to address, noise, ventilation and odour.

### 5.3. **Natural Heritage Designations**

5.3.1. The nearest European sites are South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) and South Dublin Bay SAC (site Code: 000210) c3.25km southeast.

### 5.4. **EIA Screening**

5.4.1. The proposed development is not of a type that constitutes an EIA project and environmental impact assessment is not required.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

6.1.1. The applicant’s grounds of appeal are addressed under a number of headings:

6.1.2. Improper assessment of supporting information in accordance with Part 3 Section 34(3) of the Planning and Development Act 2000 (as amended);

- The applicant originally provided a comprehensive planning rationale/justification for the proposal and a comprehensive response to the request for further information and considers that the local authority did not fulfill their responsibility to complete a proper assessment of the application.
- The 'Bar and External Management Plan' indicated the external seating area would operate as a table service only, monitored by staff. The local authority comments on the matter extend to saying, 'despite the documents submitted stating BrewDog are committed to operating a business that would be well-managed, it is envisioned that a licensed premises of this scale is likely to generate substantial noise pollution ...'.
- It is disappointing the planning authority failed to comment on the high level of specific detail, which set out BrewDog's bespoke business model, particularly in light of the repeated use by the planning authority of the term 'Superpub'.
- No regard appears to have been given to the scientific evaluation and conclusions of the noise assessment, that noise intrusion into nearby residents was within acceptable limits and the risk of significant noise impact on surrounding residential amenity is low, once management policies and internal noise levels outlined in the report are adopted. These findings are contradicted by the 1st refusal reason, and in the absence of any additional assessment, it appears the local authority simply disregarded the evidence provided and the assertion that considerable noise would be generated is not substantiated.
- Details of management procedures were simply deemed to be inadequate by the planning authority with no evidence of how this conclusion was reached. The level of assessment provided is not sufficient to support a decision to refuse permission and undermines the design team's expertise.
- The planning authority could have sought clarification of further information or imposed conditions to address changes considered to be required such as reduced scale or mitigation measures.

#### 6.1.3. Scale, impact on residential amenity and proposed changes

- The scale of the development shall not give rise to injurious impact on the surrounding residential amenity; however, amendments are proposed, being:

- The external seating area would be reduced from 130sqm to 94sqm, by removing an area at the southeast corner closest to blocks 3 and 4, reducing capacity/scale by 27% from 80 to 58 patrons. The reduced seating area would equate to the area of outdoor seating already permitted with the restaurant unit.
- The original application proposed closing times of 11:30pm Sunday to Thursday, and 12:30am on Friday's and Saturday's. The grounds of appeal propose that the premises would not be in use after 11:00pm Sunday to Thursday (30 minutes less than originally proposed) and 11:30pm Friday and Saturday (1 hour less than originally proposed).

#### 6.1.4. Comments on Planning Officer's Report

##### Superpub

- Although referenced in the Dublin City Development Plan 2016-2022, there is no definition of 'Superpub', and it appears to be an emerging term in planning assessments by DCC to describe a range of license premises varying in scale and nature. It is regularly used in a colloquial fashion with debasing connotations and in the absence of a precise classification as to what a Superpub constitutes, it is not considered appropriate for use in planning assessments.
- In P.A. Ref. 3660/16 (1,600sqm pub in Dublin City Centre), which included a brief Noise Management Plan and Management Measures, the planning authority did not refer to superpub. The decision was appealed under ABP Ref.248832 by reference to Section 16.32 of the Development Plan as being a 'superpub', but the board upheld the planning authority decision, while the inspector's report stated that "Superpub" is a rather pejorative term that is not precisely defined in planning terms... / the scale of the proposed bar is therefore justified, and so it should not be refused as a superpub".
- BrewDog's proposal is much smaller than that proposed in P.A. Ref. 3660/16, and is also accompanied by significantly more information.
- Dublin City Council's application of the term 'Superpub' seems to be associated with licensed premises of scale, anti-social behaviour, and nuisance.

## Scale

- The permitted units are a restaurant of 360sqm and retail use of 156sqm. Increasing the scale and patron capacity in the amalgamated unit is not considered to deviate unreasonably from what may already be accommodated in the permitted restaurant. Food would be served during hours similar to those of the approved restaurant.
- The hours of operation would be adhered to, regardless of any potential future change in licensing laws.
- The Bar and External Area Management Plan will ensure that noise is controlled outdoors, all food deliveries will be collected indoors and there will be no music in the outdoor seating area.
- Active street frontage and vibrant use is an integral component of the design intent of the wider Charlemont Square project. The proposal will increase animation of the Square particularly in the evenings and at weekends, while still adhering to modest hours of operation.
- This building would operate along 50.1m of dual frontage, opposite to Tesco with 40.9m of frontage in Block 1 and a restaurant in block 4 with frontage of c60.3m across three elevations.
- BrewDog is aware of the responsibilities that come with operating in a residential area.
- The behaviour and/or movement of patrons beyond the control area of the venue is not reasonably within the landlords or the operators control and is not a reasonable basis to refuse permission. It is BrewDog's intention to adhere in full to any requirements of a grant of permission and relevant licensing agreement in place with the landlord, which will ensure the venue is operated in a manner which minimises any possible impact on the surrounding residential amenity.
- The presence of many establishments in the area, which offer much later opening hours, should be considered a positive, as patrons will move quickly on to those venues and are unlikely to linger or congregate within the complex.

#### 6.1.5. Bar and External Management Plan

- The landlord owns the residential blocks, will retain control over the exterior of the estate, which is extensively monitored by 24/7 CCTV and has a vested interest that there is no nuisance associated with the proposed development.
- There will be a full-time concierge and estate management office to monitor day-to-day operations of the scheme, which will ensure operational issues are dealt with immediately.

#### 6.1.6. Noise Consultant

A letter from the appellant's noise consultants, who prepared the Noise Assessment Report clarifies, expands upon and confirms comments in the report, including:

- Section 4 identified appropriate noise criteria from best practice guidelines and conditions typically imposed by Dublin City Council to control noise.
- Section 5.0 presented a detailed assessment of the predicted noise impacts from the operation of the proposed development, demonstrated that the predicted impact would be within proposed criteria and concluded the potential risk of negative noise impacts at nearby sensitive locations would be low.
- Only background music would play internally, and internal noise level would not be comparable to a nightclub. Internal Noise assumptions included a +3dB uncertainty factor notwithstanding that the predicted breakout noise level would be well within the assessment criteria identified.
- While the noise impact assessment does not state planning noise criteria for building services and plant, as it was not specifically mentioned in the request for further information, condition 7b of the grant of permission for the permitted Block 2 controls plant noise emission in the environment, limiting LAeq 1 hour to not exceed the background noise level by 10db or more, in the interest of residential amenity and this condition would be applicable to the proposed development.

#### 6.1.7. Estate Agent Letter

- The rent for the unit is small relative to the contribution from office and residential rents.

- Dublin Landings, Custom House Square, The Hanover Quay District, One Ballsbridge and Capital Dock are examples of mixed-use city centre development which have contributed to the commercial and residential amenity value of the surrounding areas.
- There is no market evidence to support the opinion that the proposed use would depreciate the value of property in the vicinity, and they strongly believe that it would enhance the value of properties in the vicinity, add to the character and streetscape, while providing a balanced mix of needed amenities for nearby residents and workers.

#### 6.1.8. Proposed Occupant

- Matters that should be taken into consideration by the board include how BrewDog operate its Capital Docks premises including, hours of operation, locations of outdoor seating and the time restrictions that apply to the outdoor seating areas. It operates in harmony with residential and other commercial uses and the operator is not aware of any planning nuisance or enforcement matters relating to the premises.
- BrewDog opened in Cork City center in July 2022, while over 100 venues operate across Europe, the UK and USA and these venues have developed a strong reputation as well-run and managed establishments and are operating with a strong product focus. Their appeal and target market differ greatly from more traditional and/or mainstream venues.
- There are no dance floors, DJ's or live performances, with background music only, and as a result BrewDog operates successfully in mixed areas, which incorporate residential use, without impacting on existing amenities of occupiers.
- A 20 year lease has been signed, showing BrewDog's commitment to the area.

#### 6.2. **Planning Authority Response**

- None

#### 6.3. **Observations**

- None

## 7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the information received in relation to the appeal, having inspected the site, and having regard to relevant local planning policies, I am satisfied that the main issues in this appeal can be dealt with under the following headings:

- Principle of Development
- Policy
- Opening Hours / Late Night Venue
- Over Concentration of Late Night Venues/ Licenced Premises, Scale / Superpub
- Established Residential Character
- Impact on Residential Amenity
- Impact on Property Values
- Signage
- Development Contributions
- Appropriate Assessment

7.1.1. The applicant has proposed a number of changes as part of the grounds of appeal including a further reduction in opening hours, a physical reduction in the extent of the outdoor seating area and a consequent reduction in potential outdoor seating capacity. I note a third party observation was lodged by Councillor Mannix Flynn, in respect of the original application, and he would have been notified of the appeal by the planning authority in accordance with Article 69 of the Planning and Development Regulations 2001 (as amended), but did not make an observation on the appeal, while the planning authority was also provided with a copy of the grounds of appeal but made no comments in respect of the proposed earlier closing times or reduced outdoor seating area. Therefore, I am satisfied that adequate opportunity has been afforded for comments in respect of the proposed amendments and I have no objection to the consideration of the appellants alternative proposal as part of the appeal.



## 7.2. Principle of Development

- 7.2.1. The concept of mixed-use is central to the development or redevelopment of Z10 sites and the primary uses supported in this zone are residential, office and retail, with ancillary uses also facilitated where they deliver on the overall zoning objective, which is 'to consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses'.
- 7.2.2. The proposed development would include three separate uses and under the sites 'Z10 – Inner Suburban and Inner City Sustainable Mixed-Uses' zoning, 'public house' and restaurant' are permissible uses, while 'take-away' is open for consideration.
- 7.2.3. Section 14.3 of the development plan states that a permissible use is one which is generally acceptable in principle subject to normal planning considerations, including the policies and objectives outlined in the plan. I note that restaurant use has already been permitted in part of the building and an existing restaurant with a bar and serving alcohol is located in the same complex immediately to the south. I am satisfied that 'public house' and restaurant' are acceptable uses, subject to other considerations as detailed below.
- 7.2.4. Section 14.3 also states that an open for consideration use is one which may be permitted where the planning authority is satisfied that the proposed development would be compatible with the overall policies on its merits and objectives for the zone, would not have undesirable effects on the permitted uses, and would otherwise be consistent with the proper planning and sustainable development of the area. Therefore, while the 'take-away' element is not permitted in principle, it will be evaluated on its merits in my assessment.
- 7.2.5. With respect to outdoor seating, while not described in the public notices in application P.A. 4443/16, outdoor seating was shown in the plans and photomontages submitted with that application to be located on the southern side of the existing permitted restaurant, that is the subject of this appeal and outside of Krewe restaurant that recently commenced operating on the southern side of the square. I also note that the planning authority did not dispute the applicant's statement regarding already permitted outdoor seating. Therefore, I am satisfied that the principle of outdoor seating is already permitted in the Charlemont Square development.

### 7.2.6. **Policy**

- 7.2.7. Section 16.29 'Restaurants' and section 16.32 'Night Clubs/Licensed Premises/Casinos/ Private Member Clubs' of the 2016-2022 Development Plan, which are referenced in the first reason for refusal equate to sections 15.14.7.2 'Restaurants/Cafes' and 15.14.12 'Night Clubs/Licensed Premises/Casinos/ Private Member Clubs', in the 2022-2028 Development Plan. The assessment criteria of those sections as well as section 15.17.4 'Outdoor Seating and Street Furniture', 15.14.7.3 'Fast Food/Takeaways and 15.14.7.4 'Noise, Odour, Ventilation for Restaurant / Café / Take-Away, which are detailed in section 5.2 of this report, are addressed in more detail below.
- 7.2.8. Policy CHCO of the 2016-2022 Development Plan that is also referenced in the first refusal reason sought to discourage an over-concentration of large public houses in any particular area to ensure a balanced mix of cultural uses, including venues for live music, theatre, film and dance, whilst protecting the residential amenities of city centre residents. This policy or a similar policy has not been incorporated into the current Dublin City Development Plan, where the emphasis in section 15.12.12 is on seeking to avoid an over-concentration of late night venues, which is different to large public houses and I am satisfied represents a change in policy.

### 7.3. **Opening Hours / Late Night Venue**

- 7.3.1. Section 15.14.12 of the development plan, referring to licensed premises, refers to a need to strike an appropriate balance between the role of entertainment users and the economy of the city and the protection of the amenities of residents from an over concentration of late-night venues.
- 7.3.2. The legislation governing opening hours of public houses provides that alcohol may be served from 10.30am – 11.30pm, Monday to Thursday, 10.30am – 12.30am on Fridays and Saturdays and from 12.30pm – 11.00pm on Sundays, with 'Drinking-up' time of 30 minutes generally permitted at the end of official closing time. I consider these to be normal opening hours and not late opening hours.
- 7.3.3. In the original application and the response to further information, it was proposed that the opening hours would be 7:00am to 11:30pm Sunday to Thursday, and 7:00am to 12:30am on Friday's and Saturday's, while in the appeal the applicant has

proposed that 'the premises would not be in use' after 11:00pm Sunday to Thursday and 11:30pm on Friday's and Saturday's.

- 7.3.4. The application originally proposed that the outdoor seating would 'not be in use' after 10:30pm every day, while this was amended to 10:00pm in response to the request for further information, where they also indicated that the external seating would not be used before 9am.
- 7.3.5. The original application proposed opening hours until 11:30 on Sundays, which would be later than normal pub opening hours, but I also consider that those opening hours would not mean that the proposed venue would constitute a late night venue.
- 7.3.6. As the applicant has proposed to restrict opening hours to no later than 11:00pm Sunday to Thursday and 11:30pm Friday and Saturday, with all outdoor seating vacated by 10pm every day, I am satisfied that the proposed development would not constitute a late night venue and I am further satisfied that if the board is minded to grant permission, that the hours of opening/use can be controlled by way of condition, that would ensure that all patrons/customers would have vacated the premises by the times stated, so that no confusion could arise regarding additional time being permitted for drinking up, that could effectively extend the opening hours beyond those stated.

#### **7.4. Over Concentration of Late Night Venues/ Licenced Premises, Scale / Superpub**

- 7.4.1. The planning officer's report expressed 'concern with the cumulative impact of a licence premises of this scale together with existing late night venues in close proximity along Harcourt Street and Camden Street and the impact on nearby residential amenity', with respect to noise, anti-social behaviour. I will examine this matter under the headings of 'Over Concentration of Late Night Venues' and 'Scale/Superpub'.
- 7.4.2. The emphasis in Section 14.15.12 of the Development Plan with respect to licenced premises is 'to protect the amenities of residents from an over-concentration of late night venues' and also states that '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'.

### Over Concentration of Late Night Venues

- 7.4.3. In the preceding section I have concluded that the proposed development would not constitute a late night venue. Nevertheless, the nearest parts of Harcourt Street and Camden Street are approximately 300m north of the site and I am satisfied that the proposed development would not have any cumulative impact with the late night element of venues on those streets. I note that the Barge and the Portobello which are late night venues, are located within the same urban block that the site is located in, with both located c160m from the site, but both operate day, evening and late night trades, so do not and would not rely upon the proposed development, which would not be a late night venue and I am satisfied that the proposed development would not have a cumulative impact with those late night venues.

### Scale/Superpub

- 7.4.4. Internally, the amalgamated units would have a floor area of 506sqm, with 340sqm dedicated to seating customers, and the balance made up of a staff area, kitchen, bar/cellar and toilets, while the revised outdoor seating area would be 94sqm, giving a net area of 434sqm for customers. The principle of the proposed development is supported by the provisions of the development plan and I am satisfied the proposed development is an acceptable use at this location. I am also satisfied that the proposed development would constitute a combined bar/restaurant, with a significant emphasis on food sales rather than on the sale of alcohol only, as would be the case in traditional bars, and is not excessive in scale, while a similar facility already operates immediately opposite, on the southern side of the Charlemont Square.
- 7.4.5. With respect to references in the planning officer's report's and in the grounds of appeal to the term 'superpub' I tend to agree with the applicant, that there is no definition of superpub in planning and while the Dublin City Development Plan 2022-2028 makes one reference to 'superpub' at Section 15.14.12, I also note that there is an eighteen page glossary at the rear of the plan containing one hundred and eighty nine definitions, yet superpub is not defined, nor are any criteria set out in the development plan that would guide prospective applicants as to what would constitute a superpub. Therefore, I am satisfied that the proposed development cannot be deemed to be a superpub.

- 7.4.6. I also note the ‘superpub’ precedent referenced in the grounds of appeal, being a grant of permission issued by the board in December 2017 for a 1,600sqm pub on Abbey Street, Dublin 1 (ABP Ref. 248832), while I also note that the board granted permission in April 2017 for a bar/restaurant area of c1,184sqm on Camden Street, c400m from the current site (ABP Ref. 247635). Permission was also granted by the board in 2018 for a bar on Harcourt Street with a floor area of 1,256sqm under ABP Ref. 249126. Each of the permitted facilities were significantly greater in floor area than the current proposed development and in each instance the board decided to grant permission notwithstanding concerns raised by the planning authority and/or third parties that those development constituted a superpub.
- 7.4.7. Notwithstanding the above, whether this specific proposal is in keeping with the proper planning and sustainable development of the area also depends on whether it adequately protects the residential amenities of adjacent properties and these matters are considered below.

## 7.5. **Established Residential Character**

- 7.5.1. The second refusal reason referred to the impact of the proposed development on the ‘established residential character of the Charlemont Square development’. However, the decision was issued prior to the opening of ‘Krewe’ restaurant. I consider the presence of Krewe, c15m to the south of the site that serves food and alcohol and includes a small bar and has a stated closing time of 11pm, is relevant to the character of Charlemont Square, which is not solely a residential area but is a mixed-use scheme including retail, office, entertainment and residential uses. In addition, a visible concierge/management office is located on Charlemont Square, that controls the external environment, and together these things have altered the character of the area since the decision to refuse permission was issued, while the area is densely covered in CCTV cameras, that I am satisfied would act as a deterrent to anti-social behaviour in the Charlemont Square complex and restricts the potential for disturbance to residential amenity.
- 7.5.2. I also note that no closing time restriction was imposed on the grant of permission for the restaurant that was previously permitted in one of the two units subject to this application, while the Tesco express supermarket has an integrated off-license with

opening times of 10:30 to 22:00 Monday to Saturday and 12:30 to 22:00 on Sundays.

## 7.6. Impact on Residential Amenity

7.6.1. Key issues in the refusal reasons are noise and general disturbance that in the opinion of the planning authority would be generated by the external seating area, while the appellant strongly disagrees with the stated reasons.

7.6.2. I examine impact on residential amenity under a number of sub-headings.

### Outdoor Seating Area

7.6.3. The Board will note that permission already exists for a restaurant in one of the two units with a gross floor area of 360sqm, which was first granted under P.A Ref. 4443/16, with no time restrictions imposed on opening hours. That application indicated that seating would be provided along the south western façade of the permitted restaurant along Central Square, while no seating would be placed along the western side of the restaurant on Charlemont Walk. In the same application, outdoor seating was also indicated outside of Krewe restaurant although on the occasion of the site visits, none was in situ. 'Krewe' restaurant opens to customers at 12pm and closes at 11pm.

7.6.4. The nearest residential properties are the apartments in block 4 directly above Krewe, which have balconies overlooking the square.

7.6.5. I am satisfied that the principle of outdoor seating is already established in the immediate vicinity including outside of the proposed premises and I also consider that outdoor seating is acceptable at this location, as it would help to animate the streetscape and square area, particularly in the evenings and at weekends, which apart from a number of deciduous trees and raised planters that also act as seating, is a hard surfaced and inanimate space. The proposed development would connect the building to the street and bring life to the square, and subject to the controls set out in the 'Bar and External Customer Management Plan', I am satisfied that the proposed outdoor seating area that would be closed to patrons at 10pm daily and would also be subject to staff supervision and noise controls, would have a positive impact on the character of the area and would not represent a threat to the residential amenities of the apartments in Charlemont Square.

- 7.6.6. In light of the fact that permission already exists for outdoor seating outside of the both the existing permitted restaurant and Krewe restaurant on the opposite side of Charlemont Square, I do not consider that the reduction in the outdoor seating area from 130sqm to 94sqm would have a significantly beneficial impact for residential amenity, given the proposal to operate a supervised seating only policy and to cease use of the area at 10pm. However, if the board is minded to grant permission, I consider it would be appropriate to attach a condition restricting the outdoor seating area to that shown in the revised plans submitted as part of the response to further information i.e., 94sqm.
- 7.6.7. With respect to potential for an over concentration of outdoor seating, there is no other seating in the immediate vicinity.
- 7.6.8. I also consider that it would be appropriate to attach a condition restricting patrons from standing in the seating area, as a means of controlling the capacity of the outdoor area.

#### Servicing and Deliveries

- 7.6.9. While the proposed operating hours are stated to be from 7am daily, the information leaflet submitted in response to the request for further information states that food service hours would run from 12pm Monday to Friday and from 11am on Saturdays and Sundays, with food service ceasing at 10pm every day, while alcohol would not be served until 10:30am Monday to Saturday. Therefore, the servicing of the premises would be likely to occur in the early part of the day. In the interest of residential amenity, if the board is minded to grant permission, I recommend that a condition is imposed restricting deliveries or collections until 8am Monday to Saturdays only, with no deliveries or collections permitted on Sundays.
- 7.6.10. The 'Bar and External Customer Management Plan', addresses a number of matters under the heading of 'Refuse Collections and Deliveries' with particular reference to the prohibition on dropping or rolling of empty kegs. It also provides that waste will be securely stored within a dedicated waste storage area accessible by lift and will be collected at an agreed date and time.
- 7.6.11. I considered that there is a need to ensure that deliveries and collections are set out formally, and in a more detailed manner than is set out in the 'Bar and External Customer Management Plan', in order to protect the long term residential amenities

of the Charlemont Square and if the board is minded to grant permission, I recommend that a condition would be attached requiring that a detailed servicing and delivery plan, that expands upon the information already provided, be submitted to and agreed with the planning authority. It should apply to all deliveries and collections in order to avoid any significant threat to the residential amenities of the residents in the adjacent apartments by reason a noise and general disturbance.

#### Noise

- 7.6.12. Section 15.14.12 of the Development Plan associates impacts on the amenities of residents with an over concentration of late-night venues and noise emanating from the boundaries of such establishments. As stated earlier, based on the proposed opening hours, I am satisfied that the premises would not constitute a late-night venue, so many of the potential impacts associate with such venues would not apply to this premises, however, noise impacts must also be considered during the proposed servicing and operational hours.
- 7.6.13. The noise assessment reflected the concerns of the planning authority by identifying that outdoor seating would be the main source of noise. It also noted that the facades of the buildings in Charlemont Square were built in accordance with a Façade Acoustic Specification prepared for the overall residential element of the development, which ensures that the sound insulation performance of the building envelopes will ensure a high level of sound insulation in the interior of the apartments.
- 7.6.14. The noise assessment also addressed breakout noise with respect to the glazing. On the occasion of my evening site visit, I observed background music being played in the interior of Krewe restaurant, which was full of customers, but despite the facade consisting almost entirely of glazing, neither the music nor noise from patrons in the restaurant were audible on the street immediately adjacent. I am satisfied that the units subject to this application, which are part of the same overall development would provide the same level of sound insulation, such that the amenities of residents would not be affected from noise generated in the interior of the public house/restaurant.
- 7.6.15. The noise assessment was carried out at a time before the development was completed, had regard to existing background noise levels and noted that the



predicted noise levels resulting from patrons using the outdoor seating area would be within the criteria outlined in the assessment. Since the noise assessment was prepared, the existing levels of background noise, would have changed with the apartments being occupied and noise being generated from regular deliveries to and customers of Tesco and Krewe as well as residents, workers and pedestrians passing through the square.

- 7.6.16. The proposal that only background music will be played indoors, and amplified music will not be played either internally or externally is relevant as the absence of loud music in the internal space and the entire absence of music externally would tend to reduce the noise generated by customers, as would the control of seating by staff. While the EHO proposed conditions in respect of the noise control from plant, they did not specify condition regarding noise control from the outdoor seating area. However, external background and operational noise levels can be readily verified at Noise Sensitive Locations identified in the Noise assessment as the entire development site is under the control of the applicant and outlined in blue on the site location map and could therefore be effectively controlled by way of a planning condition.
- 7.6.17. The Bar and External Area Management Plan provides that the operator would be fully committed to upholding the objectives of the code of responsible retailing and subject to the implementation of suitable conditions, such as restrictions on patrons standing in the outdoor area, and suitable monitoring and compliance procedures, I am satisfied that the use of the external seating area until 10pm daily would not significantly injure the residential amenities of the nearby apartments by virtue of noise.

#### Doors

- 7.6.18. There are a significant number of doors including bi-fold doors that may be opened along the glazed façade of the building and it is noted that the breakout noise assumptions in the noise assessment are based on all doors being closed. There is potential for the doors to be opened while background music is being played inside of the building that may be audible outdoors. Therefore, if the board is minded to grant permission, it would be appropriate to attach a condition that requires that all openings are closed at 10pm daily, to reduce potential noise impacts after the

outdoor seating ceases to operate and that those openings that will serve as the means of access/egress for patrons are indicated on a drawing to be submitted to the planning authority and said doors shall remain shut after 10pm every day other than when used for the purpose of access/egress. This would also ensure that background music from the interior of the building would not be heard outdoors or in noise sensitive residences in close proximity after 10pm.

#### Take Away

- 7.6.19. The take away element of the proposed development would be ancillary and not the main focus of the premises and would cease to operate at 10:00pm on a daily basis. Subject to the proposal in the 'Bar and External Area Customer Management Plan', that the take-away service collection point would be inside in a dedicated waiting area and that drivers would not be allowed to congregate in the external area, I do not consider that the proposed take away element would have a negative impact on residential amenity, and would have not grater impact than persons attending the adjacent Tesco supermarket immediately west of the proposed seating area.

#### Ventilation / Odour

- 7.6.20. The application includes specifications for an odour control system that would be located on the roof of the building adjacent to the office tenant plant that is shown in plan and photographic form.
- 7.6.21. There is a possibility that poorly functioning buildings services, including ventilation, could give rise to noise and odours that would affect the enjoyment of the apartments and their balconies. However an odour abatement system has been designed to deal with the scale of the proposed development and I am satisfied that any potential for negative impacts on residential would be avoided by the proper installation, use and maintenance of the proposed plant. It would be appropriate to control this matter by conditions similar to those recommended by the Environmental Health Officer. The proposals specify that the bin storage area will be located internally, would adequately mitigate the risk of odour from waste interfering with the residential amenities of the apartments.

## Conclusion on Residential Amenity

7.6.22. Having regard to the foregoing, I am satisfied that the proposed development would not seriously injure the residential amenities of property in the vicinity of the site.

### **7.7. Impact on Property Values**

7.7.1. While a submission was received from an elected representative at application stage, I note that no specific objections were received from nearby residents relating to impact on residential amenity or property values. In light of the existing permission for a restaurant in one of the units subject to this application, with associated outdoor seating and with no restriction imposed on opening hours and to the presence of the recently opened Krewe restaurant on the southern side of Charlemont Square, which has permission for outdoor seating and a closing time of 11pm, I do not consider that the proposed restaurant/public house or take-away use would impact materially on residential amenity, nor would it impact negatively on property values in the vicinity, having regard to the limited overall floorspace of the facility and the closing times set out by the appellant, as well as having regard to the central location of the site where existing noise levels are generally higher than other less central locations.

### **7.1. Signage**

7.2. The development description in the public notices includes the wording 'erection of associated signage zones at ground floor level (south-western corner)' and the applicants planning report elaborates to say 'including 4 no. affixed on the south-west elevation and 2 no. affixed on the west elevation at ground-floor level (total area c.2.4sqm).

7.3. The application drawings and planning officer's report note that the signage would consist of raised illuminated individual lettering in addition to double sided internally illuminated lightbox signs with attached graphics. I note that the existing retractable awnings would remain in situ. I have no objection to the provision of signage, but the application drawing lacks specific details of the proposed signage and if the board is minded to grant permission, I am satisfied that this matter can be addressed by way of a condition.

## 7.4. **Development Contributions**

### Section 48 Development Contribution Scheme

- 7.4.1. Section 10 of the Dublin City Section 48 Development Contribution Scheme sets out circumstances where no contribution or a reduced contribution applies to development including a 'change of use from one commercial use to another. Any net additional floor space will be charged at the commercial rate'.
- 7.4.2. Note 2 of the Development Contribution Scheme, referring to the level of contribution chargeable, states that 'The floor area of proposed development in a single dwelling unit or commercial development shall be calculated as the gross floor area. This means the area ascertained by the internal measurement of the floor space on each floor of a building (including internal walls and partitions) and including mezzanine floors.
- 7.4.3. I am satisfied that no contribution is chargeable in respect of the internal space and I am also satisfied that the proposed external seating area does not constitute floor area as defined in the building city development contribution scheme. Therefore no development contributions apply to the proposed development.

### Luas Cross City

- 7.4.4. The same exemption applies to Luas Cross city which states that the following is exempt from the payment of contributions - Permissions for a change of use from one commercial / retail use to another are exempt. Any net additional floorspace will be charged at the commercial rate;

## 7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development which constitutes a change of use and minor modifications to an existing building within 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 either individually or in combination with other plans or projects on the conservation objectives of any European site.

## 8.0 Recommendation

8.1. I recommend that permission be GRANTED for the following reasons and considerations and subject to the following conditions.

## 9.0 Reasons and Considerations

Having regard to the location of the site, in a newly redeveloped urban block, and to the mixed use character and pattern of development and uses in the area, to the Z10 zoning objective of the site and to the policies and objectives of the Dublin City Development Plan 2022 – 2028, the Board considered that, subject to compliance with the conditions set out below, the proposed change of use of a permitted restaurant and retail unit to a public house/restaurant with outdoor seating would not seriously injure the residential amenities of the area or depreciate the value of property in the vicinity and would not negatively affect the character of area and would, therefore, be in accordance 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 on the 14 <sup>th</sup> of February 2022, as amended by the revised plans and particulars submitted on 18 <sup>th</sup> of July 2022, 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. <b>Reason:</b> In the interest of clarity.
2.	The proposed development shall be operated in accordance with management measures set out in the Bar and External Customer

	<p>Management Plan submitted to the planning authority on the 18<sup>th</sup> of July 2022, except as may otherwise be required in order to comply with the following conditions.</p> <p>Reason in the interest of clarity and residential amenity.</p>
3.	<p>Patrons are not permitted on the premises between the following hours:</p> <p>a) Sunday to Thursday 23:00 – 07:00</p> <p>b) Friday and Saturday 23:30 – 07:00</p> <p><b>Reason:</b> To protect the amenities of the area and in the interest of clarity.</p>
4.	<p>The external seating area shall extend to 94sqm and have a maximum capacity of 58 persons all of whom must be seated, in accordance with the revised plan submitted to the board on the 1<sup>st</sup> of September 2022. Prior to the commencement of development detailed and dimensioned plans and elevations and a seating plan, at a scale of 1:100, will be submitted to and agreed in writing with the planning authority confirming the extent and type of seating to be provided as well as any proposed boundary treatments.</p> <p><b>Reason:</b> In the interest of residential amenity and in the interest of clarity.</p>
5.	<p>The applicant/operator of the premises shall comply with the following requirements –</p> <p>(a) No music or any other sound for entertainment shall be amplified in or outside the premises on the site.</p> <p>(b) The external seating area shall not be used between the hours of 2200 and 0900 hours.</p> <p>(c) All doors / windows in the premises other than designated access doors shall be from fully closed between 2200 and 0900 hours. Prior to the commencement of development the applicant shall submit a floor plan to the planning authority for written agreement indicating the location/s of the designated access doors to the premises.</p> <p>(d) The take away service shall not operate after 2200 hours daily.</p> <p><b>Reason:</b> To protect the amenities of the area and adjacent properties.</p>

6.	<p>The applicant/operator of the premises shall comply with the following requirements:</p> <ul style="list-style-type: none"> <li>(a) Noise levels to be monitored for a period a one week prior to commencement of development to establish a background noise level at NSL1, NSL2 and NSL3 as identified in the Figure 4 of the Noise Assessment dated 15<sup>th</sup> July 2022, to establish the background noise level and the results of same shall be submitted to the planning authority for its records.</li> <li>(b) Noise emanating from the premises shall not exceed the background noise level at NSL1, NSL2 and NSL3 by more than 3dB(A) during the period from 0700 to 2200 hours and by 1 dB(A) at any other time. The background level shall be taken as L90 and the specific noise shall be measures at LAeqT.</li> <li>(c) The octave band centre frequencies of noise emissions at 63 Hz and at 125 Hz shall be subject to the same locational and decibel exceedence criteria in relation to background and operational noise levels as set out in (b) above. The background noise levels shall be measured at LAeqT.</li> <li>(d) When measuring the specific noise, the time (T) shall be any five minute period during which the sound emission from the premises is at its maximum level.</li> <li>(e) Any measuring instrument shall be precision grade.</li> </ul> <p>Detailed plans and particulars indicating sound-proofing or other measures required to ensure compliance with this condition shall be submitted to, and agreed in writing with, the planning authority prior to use of the premises as a public house/restaurant. An acoustical analysis shall be included with this submission to the planning authority.</p> <p><b>Reason:</b> In order to protect the amenities of residential property in the vicinity having particular regard to the nuisance potential of low frequency sound emissions during operating hours.</p>
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7.	<p>Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
8.	<p>The developer shall control odour emissions from the premises in accordance with measures (including extract duct details) which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of public health and to protect the amenities of the area.</p>
9.	<p>The construction of the proposed development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the proposed development, including noise management measures, traffic management and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interest of public safety and residential amenity.</p>
10.	<p>Prior to the commencement of development the applicant shall submit to and agree in writing with the planning authority a detailed servicing management plan in respect of deliveries and the collection of wastes from the premises. The plan shall include delivery and collection times, locations parking for service vehicles and routes of movement of products and wastes to and from the premises.</p> <p>Deliveries and collections are not permitted before until 8am Monday to Saturdays only, with no deliveries or collections permitted on Sundays.</p> <p><b>Reason:</b> In the interest of public safety and residential amenity.</p>



11.	Full specifications and detail of the proposed signage shall be submitted to and agreed in writing with the planning authority prior to the commencement of development  <b>Reason:</b> To protect the visual amenities of the area.
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Joe Bonner  
Senior Planning Inspector

4<sup>th</sup> March 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	ABP-314509-22		
<b>Proposed Development Summary</b>	Amalgamation of 2 units, change of use to licensed premises with restaurant		
<b>Development Address</b>	Charlemont Street/Tom Kelly Road, Dublin 2, D02 P489		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	No further action required
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>Conclusion</b>			
<b>No</b>	X	N/A	No EIAR or Preliminary Examination required
<b>Yes</b>			Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>	<input checked="" type="checkbox"/>	<b>Preliminary Examination required</b>
<b>Yes</b>	<input type="checkbox"/>	<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_