



An
Bord
Pleanála

Inspector's Report

ABP-314525-22

Development	Planning permission to erect a single-storey, 70.15sqm covered pergola to the rear (southwest) of the existing licensing premises to provide external dining/seating facilities.
Location	The Blackrock Bar/Eatery/Terrace (Formerly Three Tun Tavern) 1 - 5 Temple Road, Carysfort Avenue, Blackrock, Co. Dublin.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D22A/0433
Applicant(s)	Carysfort Inns Limited
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Carysfort Inns Limited
Observer(s)	Keith Wood and Borodak Ltd

Date of Site Inspection

8th September 2023.

Inspector

Sarah Lynch

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1.0 Site Location and Description

- 1.1. The development site is located within the centre of Blackrock village and is a large corner site at Temple Road and Carysfort Avenue. The site backs onto a small cul de sac development at Collins Court and is surrounded and abutted by a mix of development including many residential developments. The site in question is located to the rear of the building which backs onto the residential cottages within Collins Court. There is an existing outdoor area which is uncovered at this location and is utilised as a smoking area for patrons of the public house.

2.0 Proposed Development

- 2.1. It is proposed to install a 70.15sqm covered pergola to the rear of the existing public house to provide an outdoor seating area.

3.0 Planning Authority Decision

3.1. Decision

Dún Laoghaire Rathdown Council determined to refuse permission for the following reason:

‘Having regard to the nature, design and location of the proposed pergola structure to the rear of the existing public house premises, including in particular its retractable, roof and all plans and particulars lodged with the application and having regard also to the location of the development site, it is considered that the proposed development may if permitted give rise to potential noise impacts. The proposed development would therefore seriously injure the amenities and depreciate the value of property in the vicinity and would be contrary to the proper planning and sustainable development of the area’.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

- The planners report is consistent with the decision of the local authority.

3.2.2. Other Technical Reports

- Drainage – no objection
- Transport – no objection.

3.3. Prescribed Bodies

Environmental Health – Noise levels should not exceed background by 10dB.

3.4. Third Party Observations

4 no. submissions were received in relation to the planning application. Third parties were predominantly concerned with noise impacts and overlooking and loss of privacy to residential properties from the terrace area.

4.0 Planning History

- ABP-243594 – Permission granted for development consisting of minor modifications to the front and side elevations incorporating fenestration alterations, new openings and replacement signage (c.4.55m² signage area in total) with 2 no. hanging signs. Permission is also sought for the development of an outdoor garden area to rear of pub (c.134m²) at ground floor level only, including all site development and landscape works. This development will replace the established smoking area and beer garden (53m²) which currently exists at ground floor level. This development also consists of the removal of the established smoking area and beer garden at first floor level and its replacement with a service area and realigned fire escape.
- D04A/1367: Permission granted for the following development proposal: 'Change of use of the current off licence area to a cafe/bar. At ground floor level this amendment is to include formation of a new opening from the adjoining restaurant to the new cafe area, the fitting of new concertina fixed panel doors to the facade, and a new cold room area for use of adjoining kitchen. At first floor level the amendment is to consist of a new ladies toilets, and storage area

to rear, formation of new timber stud walls, and a protected corridor from the existing office area.’

- ABP-130382 The Board overturned a decision to grant permission for a two-storey extension to the rear, a single storey beer garden and connection to existing licensed premises. The Board refused for one reason relating to inadequacy/inaccuracy of submitted drawings (the Inspector recommended permission subject to conditions).
- D00A/0151: Permission granted for the following development proposal: ‘Extend existing restaurant to first floor level consisting of male wc, female wc, staff wc and rest area, bottle and dry goods storage area. To enclose existing private laneway between Nos. 1A and 3 Temple Road. To remove part of the existing party wall between Nos. 1A and 3 Temple Road at ground floor level. To enclose part of the rear flat roof of No. 1A Temple Road at first floor level to form new storeroom. To retain area previously converted from open yard to rear lounge area in the public house. 1-3 Temple Road, Blackrock, Co. Dublin.
- D97A/0421: Permission granted for new shop front at 5 Temple Road (No. 5 forms part of current application site).

5.0 Policy Context

5.1. Development Plan

Dún Laoghaire Rathdown County Development Plan 2022-2028 is the relevant plan.

The site is located within an area subject to the DC zoning objective which seeks to protect and provide for and / or improve mixed use District Centre facilities.

- Section 12.9.3 Noise, Odour and Vibration Generating Uses

5.2. Natural Heritage Designations

- 5.3. The nearest Natura 2000 sites are the South Dublin Bay SAC and South Dublin Bay and River Tolka SPA which are located c. 200 metres east of the site.

5.4. **EIA Screening**

5.5. The proposed development is not of a class for the purpose of EIA.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The first party grounds of appeal have been prepared by SSA Architects on behalf of the applicant and are summarised as follows:

- No additional noise from yard
- Proposal will attenuate internal noise
- Yard is smaller and will contain less people.
- Support for development in neighbourhood.

6.2. **Planning Authority Response**

- None

6.3. **Observations**

- Two observations were received from #. The issues raised within these submission are summarised hereunder:
 - Observers are solely concerned about noise generation and the monitoring or enforcement of any conditions in the event of a grant of permission.

7.0 **Assessment**

7.1. I have reviewed the documentation submitted with the appeal, carried out a site inspection and reviewed the grounds of appeal as outlined above and I consider that the substantive issue for consideration before the board relate solely to the reason for refusal which pertains to the potential for significant noise impacts to arise from the proposed development.

- 7.2. Having carried out a site inspection and reviewed the planning history for the site it is clear that the existing outdoor area to the rear of the public house is utilised as a smoking / outdoor area by patrons. This area is currently uncovered and would therefore be used seasonally when weather permits. Conditions relating to the use of this area restrict the use between 23:00hrs and 07:00 hrs everyday of the week.
- 7.3. Given that the area is uncovered it is reasonable to expect that this area is not used to a significant extent during the winter months and is merely used at these inclement times for smokers for a brief period whilst attending the venue. This type of use would give rise to a certain level of noise disturbance for surrounding residents but would not be continuous and would have a level of intensity that would change throughout the year.
- 7.4. To introduce a covered enclosed seating area that could be used throughout the year and open during periods of fine weather would undoubtedly increase the intensity of the use of this outdoor area and would provide a facility that could be used 7 days a week all year round on a permanent basis. This would significantly change the nature of the current use and would have a very different impact on the surrounding residential uses in the vicinity of the site in terms of noise disturbance.
- 7.5. As mentioned within the site description above, there is a cul de sac of dwellings that directly face onto the rear gate of this site who have expressed concerns in relation to noise disturbance and have also stated that noise complaints are ongoing at present. Concerns are also raised within the observations from the owner of a residential development to the south of the subject site in relation to noise disturbance.
- 7.6. I note the applicants have carried out a noise assessment of the proposed development and contend that the development will improve current noise emissions, however I am not satisfied that the proposal overall, given the potential for a significantly intensified use of this area throughout the year would not give rise to additional noise impacts above that currently experienced by residential properties in the vicinity and as such I am left with no option but to recommend that the development is refused on this basis.

8.0 Recommendation

- 8.1. I recommend that permission is refused for the following reason:

9.0 Reasons and Considerations

The proposed development by virtue of providing an enclosed seating area within an existing outdoor smoking / garden area to the rear of the existing licensed premises adjacent to existing established residential development, would undoubtedly give rise to an intensification of use of this area which has the potential, if permitted, to give rise to unacceptable noise impacts. The proposed development by virtue of its location directly adjacent to established residential developments would therefore seriously injure the amenities and depreciate the value of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

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.

Sarah Lynch
Senior Planning Inspector

11th September 2023