



An
Bord
Pleanála

Inspector's Report ABP-315120-22

Development	Retention of structure and use of area for licenced premises use including beer garden
Location	Lands adjacent to The Balgriffin Inn, Malahide Road, Balgriffin, Dublin 17
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F22A/0467
Applicant(s)	Beechlawn Taverns Ltd.
Type of Application	Permission (s. 34)
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party (s. 37)
Appellant(s)	Beechlawn Taverns Ltd.
Observer(s)	None
Date of Site Inspection	7 th July 2023
Inspector	Philip Maguire

1.0 Site Location and Description

- 1.1. The appeal site is located along and to the western side of the Malahide Road (R107) in Balgriffin, Co. Dublin, immediately north of its junction with the Belcamp Manor estate road and opposite Balgriffin Road (R123). The posted speed limit is 60kph. The surrounding area is characterised by commercial, and community uses including a public house, betting shop and cemetery. The wider area is residential with construction ongoing at Belcamp Manor to the west and at Belcamp Hall to the south.
- 1.2. The appeal site has a stated area of 0.00835ha and a frontage of some 21m along the Belcamp Manor estate road. It consists of a beer garden and smoking area attached to The Balgriffin Inn, a gastropub which occupies part of a traditional pitched roof, six-bay, two-storey building with east-facing front elevation. The building extends to the side and rear with beer garden and smoking area attached to same and located on a pre-existing footpath and verge area. It consists of a lean-to roof structure with partially enclosed seated/dining and unseated/bar areas and partially covered smoking areas. There are 3 no. apartments above the Balgriffin Inn, primarily at first-floor level.

2.0 Proposed Development

- 2.1. Planning permission is sought for the retention of a structure and use of an 83.50sq.m area for licensed premises use. As noted, the lean-to structure is attached to the southern/side elevation of The Balgriffin Inn. It represents a *de facto* extension of the floor space of the existing public house via a change of use of a footpath and verge area to a beer garden and smoking area. There is no internal connection with the pub.
- 2.2. The lean-to roof structure is roughly 21m long and 4.2m wide, narrowing to 3.5m at the eastern end. It is evident that narrower section was reduced to c. 2.0m wide at some point prior to my inspection, and the 1m high timber guarding has been removed.
- 2.3. The partially enclosed seated/dining area is located to the western end of the overall structure. It extends to the edge of the pre-existing footpath with a width of c. 4.3m. It is roughly 7.0m long and 2.8m high at the tie-in point. The timber panel walls are anchored to the ground and are black in colour. The roof is clear corrugated Perspex. The floor is artificial grass which extends beyond to the roller shutter entrance door. The floor plans illustrate that it caters for at least c. 36 seated patrons which I can

corroborate following my site inspection, although spare stools were evident. I also observed that it includes a television screen, electric heaters, lighting and a speaker.

- 2.4. The unseated/bar area is located centrally. It measures roughly 9.4m long and 2.0m wide. The screen walls with timber and glass panels are partially recessed within the roof structure. The floor plans illustrate that it consists of 4 no. unseated tables, although 5 no. waist-high tables and 4 no. stools were evident during my site inspection. Electric heaters, lighting and a CCTV camera were also evident, in addition to a public street lighting column, located centrally in this area of former footpath.
- 2.5. The partially covered smoking area is located to the eastern end of the overall structure. It measures roughly 4.1m long and 2.0m wide. The floor plans illustrate that it caters for at least 4 no. seated patrons and 1 no. waist-high table was evident.
- 2.6. An additional drawing was submitted as part of the appeal. It illustrates sightlines from “Balgriffin Cottages Road” (Belcamp Manor estate road) onto the Malahide Road.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority decided to refuse permission for the proposed development on 20th October 2022 for the following reasons:
 1. *The structure by reason of obstruction of the public footpath for pedestrians and substandard sightlines would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise.*
 2. *The development is at variance with Objective DMS131 of the Fingal Development Plan 2017-2023, whereby the proposed development is premature and may pose a significant constraint to the delivery of the proposed East-West Link Road south of the subject site. The development is therefore considered to materially contravene Objectives DMS131 of the Fingal Development Plan 2017-2023 and would be contrary to the proper planning and sustainable development of the area.*
 3. *The structure seeking retention permission and permission, being ad hoc and haphazard in design, with inappropriate finishes, together with its prominent location in extreme proximity to lands subject to residential development would*

present as an intrusive and incongruous feature within the emerging context which would be seriously injurious to the visual amenities of the area which in turn by reason of intensification of use would unduly impact upon the existing and future residential amenities. The development in the form presented would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Planning Report (20/10/22): Basis for the Planning Authority decision. It concluded that the proposal poses serious issues and constitutes a traffic hazard. Specifically it states that the location of the development poses a threat to the delivery of key infrastructure and by virtue of its location within the RA Zoning Objective, which is a newly emerging residential area together with the proximity to existing and future dwellings, the development by reason of inappropriate, piecemeal and haphazard design has a detrimental impact upon the visual amenities of the area and together with the nature of the use would unduly intensify the noise nuisance arising from the public house. No AA/EIA issues arose.

3.2.2. Other Technical Reports

- Roads (19/10/22): Refusal.
- Water Services (07/10/22): No objection subject to conditions.

3.3. Prescribed Bodies

- DAA (20/09/22): No objection.

3.4. Third Party Observations

None.

4.0 Planning History

4.1. Belcamp Manor and Public House (formerly Campion's):

PA ref. F15A/0093 – permission granted on appeal (PL06F.245710) in March 2016 for mixed use residential and retail development comprising 52 no. residential units. Condition 3 omitted the proposed 4-storey mixed use building etc. on the footprint of the public house and therefore the public house was not demolished, as proposed.

PA ref. F18A/0092 – permission granted on appeal (ABP-301639-18) in March 2019 for modifications to PA ref. F15A/0093 including changes to road and house levels etc.

PA ref. F18A/0167 – permission granted in September 2019 for modifications to PA ref. F15A/0093 including 12 no. dwellings and change of use from licensed bar at first floor level over existing ground floor public house, to 1 no. 5-bed apartment etc. Condition 2 refers to the conditions of the parent permission with specific reference to junction improvements with the Malahide Road/Hole in the Wall Road. Condition 4 omitted the smoking and/or seating area from the west of the public house. Condition 7 requires a section of land at the junction entrance be made available to the Planning Authority for the provision of the future east-west distributor road, at which time an alternative access for the development shall be provided off the new distributor road and the current access arrangement to the side of the pub shall be closed up.

PA ref. F21A/0390 – permission granted in November 2021 for modifications to PA ref. F18A/0167 including the subdivision and re-configuration of the existing 2 no. 5-bed units to provide for 3 no. 3-bed units etc.

4.2. Belcamp Hall lands:

PA ref. F15A/0609 – permission granted on appeal (ABP ref. PL06F.248052) in June 2017 for the development of houses, apartments and shops and the change of use of Belcamp Hall, a protected structure, to residential use. A total of 176 no. dwellings and 947sq.m of commercial and community accommodation permitted.

PA ref. F18A/0058 – permission granted in May 2018 for amendments to PA ref. F15A/0609 including the replacement of 9 no. three-storey 3-bed houses with 8 no. two-storey 3-bed houses etc.

PA ref. F19A/0220 – permission granted in July 2019 for amendments to PA ref. F15A/0609 including 6 no. additional dwellings.

PA ref. F19A/0221 – permission granted in August 2019 for amendments to PA ref. F15A/0609 including revisions to layout and house types of 49 no. units etc.

PA ref. F20A/0379 – permission refused in April 2021 for 85 no. dwelling etc. for two reasons: (1) the design of the East-West link road was deficient; and (2) there was an absence of dedicated timeframe for restoration of Belcamp Hall, protected structure.

PA ref. F21A/0401 – permission granted on appeal (ABP-312060-21) in August 2023 for 78 no. residential units etc. at Belcamp Hall (a Protected Structure). Condition 5(a) requires the final design etc. of the East-West link junction details with the Malahide Road to be agreed in writing with the Planning Authority prior to commencement.

PA ref. F21/0488 – permission granted on appeal (ABP-312848-22) in August 2023 for 77 no. residential units etc.

PA ref. F22A/0136 – permission granted on appeal (ABP-314169-22) in August 2023 for 40 residential units, childcare facility and café etc.

ABP-313494-22 – current SHD application for 10-year permission for the construction of 2,527 no. residential units (473 no. houses, 2,054 no. apartments), crèche etc.

ABP-316297-23 – current appeal for the construction of 32 no. residential units and 3 no. retail units etc. Planning Authority decision to grant under PA ref. F22A/0426.

5.0 Policy Context

5.1. Fingal Development Plan 2023-2029

- 5.1.1. The current Development Plan came into effect on 5th April 2023. The Planning Authority decision of 20th October 2022 was made under the previous Plan for the period 2017-2023. This appeal shall be determined under the current Plan.
- 5.1.2. The appeal site is zoned 'RS' Residential with a zoning objective to *'provide for residential development and protect and improve residential amenity'* and vision to *'ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity'*.
- 5.1.3. *Public House* is amongst the development types listed as 'not permitted' in this zoning.
- 5.1.4. The main objectives relevant to the proposal are set out in chapters 2 (Planning for Growth), 6 (Connectivity and Movement), 7 (Employment and Economy) and 14 (Development Management Standards) of the Written Statement.

5.1.5. The following sections are relevant to the proposed development:

- 2.7.2 – Role of Each Settlement (Dublin City and Suburbs)
- 6.5.6.5 – Accessibility and Universal Design
- 6.5.6.6 – Permeability
- 7.5.1 – Employment and Economic Development
- 13.3 – Non-Conforming Uses
- 14.4.5 – Shopfront Design
- 14.17.5 – Road Network and Access
- 14.17.7 – Car Parking
- 14.20.17 – Noise

5.1.6. Summary of the relevant policy objectives:

CMO19	Seeks to support improvements to the pedestrian and cycle network that prioritises the removal of barriers to active movement, to improve connectivity and permeability and optimise accessibility for all users.
CMP14	Seeks to implement the provisions of DMURS in relation to the delivery of safe streets and overall best practice design and promote the principle of filtered permeability in new developments.
EEO11	Seeks to ensure economic growth of the Metropolitan Area.
EEO33	Seeks to support and facilitate evening / night-time economy uses.
ZO3	Seeks to generally permit reasonable intensification of extensions to, and improvement of, premises accommodating non-conforming uses.
DMSO9	Seeks to prevent the use of screening that obscures the glazed area of a shopfront window where it negatively impacts on the streetscape.
DMSO116	Seeks to provide appropriate building setbacks along the road network to facilitate future road improvements.
DMSO119	Requires the number of car parking spaces at new developments in accordance with the standards set out in Table 14.19 etc.

5.2. National Planning Framework

- 5.2.1. Acknowledging demographic trends, Project Ireland 2040, the National Planning Framework (NPF), seeks a 50:50 distribution of growth between the Eastern and Midland region and other regions. It places an emphasis on renewing and developing existing settlements including a delivery target of at least 40% of all new housing within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites.
- 5.2.2. Section 9.4 of the NPF notes that as we seek to promote such compact and efficient forms of development within our settlements, it is important to more proactively manage noise. The NPF supports measures to avoid, mitigate, and minimise or promote the pro-active management of noise, where it is likely to have significant adverse impacts on health and quality of life, through *inter alia* suitable planning conditions and good acoustic design such as building materials, noise barriers etc. National Policy Objective (NPO) 65 seeks to promote the pro-active management of noise where it is likely to have significant adverse impacts on health and quality of life.

5.3. Regional Spatial and Economic Strategy

- 5.3.1. The Eastern and Midland Regional Spatial and Economic Strategy (RSES) 2019-2031 builds on the foundations of the NPF. Section 7.3 of the RSES notes that stress from living with noise can have chronic effects on human health including impacts on mental health and sleep disturbance. Excessive noise also has harmful effects on wildlife.

5.4. Design Manual for Urban Roads and Streets (DMURS)

- 5.4.1. Guidance relating to the design of urban roads and streets is set out in DMURS (DTTS and DHPLG, 2013, updated May 2019). Section 4.3.1 illustrates the space needed for pedestrians to comfortably pass each other with reference to the anticipated levels of activity. The minimum space for two people to pass comfortably in areas of low pedestrian activity is 1.8m. The desirable space for two people to pass comfortably in areas of low to moderate pedestrian activity is 2.5m. The minimum space for small groups to pass comfortably in areas of moderate to high pedestrian activity is 3.0m.
- 5.4.2. Section 4.4.4 indicates that the stopping sight distance (SSD) for a road design speed of 50kph is 45m. Section 4.4.5 notes that priority junctions in urban areas should have

a maximum X-distance of 2.4m but this can be reduced to 2m where vehicle speeds are slow and flows on the minor arm are low. The Y-distance should correspond to the SSD while adjustments should be made for certain streets. This section also notes that junction visibility splays should be kept clear of obstructions but accepts that some objects not large enough to wholly obscure a vehicle, pedestrian or cyclist may be acceptable provided their impact on the overall visibility envelope is not significant. Slim objects such as signs, public lighting columns and street trees may be provided.

5.5. Other Guidance

It is reasonable to mention some of the guidance and standards on noise from other jurisdictions and internationally, in the absence of any specific national guidance.

5.5.1. Guidelines for Community Noise

These Guidelines (WHO, 1996, updated 1999) discuss some of the health impacts of noise in dwellings. This is important in the context of NPO 65 which seeks to pro-actively manage noise where it is likely to have significant adverse impacts on health and quality of life. The Guidelines identify adverse noise impacts such as sleep disturbance, annoyance and speech interference. Table 1 provides guideline values for community noise in specific environments. The following is relevant to this appeal:

Specific environment	Critical health effect(s)	L _{Aeq} [dB(A)]	Time base [hours]	L _{Amax} fast [dB]
Outdoor living area	Serious annoyance, daytime and evening	55	16	-
	Moderate annoyance, daytime and evening	50	16	-
Dwelling, indoors	Speech intelligibility & moderate annoyance, daytime & evening	35	16	
Inside bedrooms	Sleep disturbance, night-time	30	8	45
Outside bedrooms	Sleep disturbance, window open (outdoor values)	45	8	60

Noting the proximity of the appeal site to neighbouring residential properties, these values are pertinent and the negative impacts of generally uncontrolled (save licensing laws) noise from music, amplified and patron sound etc. are significant considerations.

5.5.2. **Good Practice Guide on the Control of Noise from Pubs and Clubs**

This practice guide (Institute of Acoustics, 2003) does not provide objective noise criteria for the purpose of assessing and controlling noise from all the main sources that can be present. It does however identify sources of disturbance originating from outside such buildings including music, singing and speech, both amplified and non-amplified and rowdy behaviour, all of which could reasonably be considered to occur.

Section 7.1 states that *'where noise could affect the occupants of neighbouring properties, consideration should be given to noise control issues prior to applying for planning consent, or a licence that permits entertainment, or before introducing any material changes to buildings or operations. Such consideration is financially prudent, as it could reduce the likelihood of failed planning or licence applications and/or costly remedial measures, in the event of justified complaints from local residents.'*

Section 7.2 states that *'in order to minimise the risk of noise problems arising, extreme caution should be exercised in permitting developments that result in pubs, clubs and other similar premises being structurally attached to noise-sensitive properties. Such development should not be permitted without it being clearly demonstrated that acceptable noise levels can be achieved and maintained at, and in, the noise-sensitive properties. When demonstrating acceptability, a conservative approach should be adopted in the calculations, which, must be based on realistic source noise levels.'*

5.5.3. **Environmental Noise Guidance for Local Authorities**

Section 20 of this guidance (Association of Acoustic Consultants of Ireland, 2021) focuses on *Pubs & Clubs* and highlights breakout music noise as the source that gives rise to the majority of complaints. Significantly, it confirms that there is no standardised or universally applied method for assessing music noise from pubs and clubs. Typical issues are highlighted including the inadequate use of *LAeq T* for assessing music noise due to bass elements such as low frequency sound. It recommends carrying out low frequency assessments with exceedances of 5dB at a dwelling's façade may indicate it is audible inside and may therefore be unacceptable to the resident.

5.6. **Natural Heritage Designations**

Baldoyle Bay SAC (Site Code 000199) – 2.4km east

Baldoyle Bay SPA (Site Code 004016) – 2.8km east

5.7. EIA Screening

- 5.7.1. The proposed development is not a class of development set out in Schedule 5, Part 1 or Part 2 of the Planning and Development Regulation 2001 (as amended) and therefore no preliminary examination is required. See Appendix 1.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A 1st Party appeal has been lodged by Downey Chartered Town Planners, on behalf of the applicants, Beechlawn Taverns Limited.
- 6.1.2. The main grounds of appeal can be summarised as follows:

1st Refusal Reason

- It is stated that the eastern end of the canopy is not enclosed and provides a roofed footpath with an average width of 2m, and an access point when it reaches the street crossing point. It is therefore submitted that the structure is not a barrier to accessing the footpath and/or street crossing point.
- It is suggested that the footpath does not give connection to a destination where a notable footfall is expected, and the structure is not hindering pedestrian access to and around the site and would not result in the endangerment of pedestrians.
- In relation to the safety and access of road users and referring to a sightline assessment submitted with the appeal, it is stated that the structure would not block sightlines to Malahide Road. It is also noted that the structure is relatively open when approaching the junction and thus it does not give rise to obstruction of sightlines when driving onto the Malahide Road.
- It is suggested that though the development takes a portion of the footpath to the southern boundaries of the existing pub, it does not give rise to road access and safety matters for both pedestrians and road users.

2nd Refusal Reason

- It is stated that the design of the East-West Link Road is at an advanced stage and no major changes are expected. They therefore submit that the proposal would

not impact the road design notwithstanding a current appeal on the Belcamp Hall lands and would not contravene the Objective DMS131 of the Development Plan.

3rd Refusal Reason

- It is stated that the growing community in the area puts pressure on the already established amenities, including the adjoining pub. In providing the structure, it is submitted that public access and road safety have been prioritised and the overall massing appears modest when compared to the existing public house with a setback from the building line when facing onto the Malahide Road.

6.2. Planning Authority Response

6.2.1. The Planning Authority's response can be summarised as follows:

- Application was assessed against the policies and objectives of the Fingal County Development Plan 2017-2023 and existing government policy and guidelines including the zoning objective, as well as impact on adjoining neighbours and the character of the area.
- The applicant's sightline assessment of the access from Balgriffin Cottages Road (Belcamp Manor estate road) onto the Malahide Road is noted, but it is stated that the sightline issue was for cars exiting the carpark to the rear of the public house and not onto the Malahide Road.
- The PA remain of the opinion that the development seeking retention permission is unacceptable and request that the Board uphold the decision to refuse.
- Provision should be made for financial contribution if the appeal is successful.

7.0 Assessment

7.1. Preliminary Points

7.1.1. Having examined the application details and all other documentation on the appeal file, including the appeal submissions, and inspected the site, and having regard to relevant local, regional and national policies and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal. The issues can be addressed under the following headings:

- Traffic and Transport
- Visual Amenity
- Residential Amenity
- Appropriate Assessment

7.2. Traffic and Transport

- 7.2.1. The Planning Authority's 1st refusal reason relates to the endangerment of public safety by reason of a traffic hazard or obstruction of road users etc. by reason of obstruction of the public footpath for pedestrians and substandard sightlines.

Obstruction of the Public Footpath

- 7.2.2. The structure is illustrated on the submitted drawings as c. 21m long and 4.2m wide, narrowing to 3.5m at the eastern end. As noted above, it is evident that the narrower part of the roof was reduced to c. 2m wide at some point prior to my inspection, and the 1m high timber guarding has been removed, leaving the footpath, over which it has been built, marginally more accessible than that illustrated. The applicant submits that the average width of this, now unroofed, section of footpath is 2m wide and whilst I note that the removal of the timber guarding has marginally improved its accessibility, I have irreconcilable concerns over its impact on the most vulnerable road users.
- 7.2.3. In this particular regard, I note that the crossing point referenced by the applicant, which includes tactile paving for the visually impaired, does not have a directly opposing dropped kerb on the southern side of the Belcamp Manor estate road. Further movement along the northern side of the estate road would prompt users into the carriageway as most of the remaining section of footpath permitted under ABP ref. PL06F.245710, as modified, is now obstructed by the seated/dining area. I would not, therefore, concur with the applicant's contention that the structure is not a barrier and does not hinder pedestrian access to, and around, the site. It evidently is, and does. Nor would I agree that the footpath does not provide connectivity, having regard to the quantum of housing in Belcamp Manor, all of which are to the north of the estate road.
- 7.2.4. The impact on public safety would be most acutely felt by children, wheelchair users and the visually impaired, who would be forced into the carriageway and behind a blind spot for oncoming vehicles travelling towards the Malahide Road. Without a dropped kerb on the southern side of the estate road, wheelchair users would be in contra-flow

to traffic for before rejoining the footpath at the next dropped kerb on the northern side. Similar problems exist for the visually impaired, children and parents with prams and to my mind, this is determinative. Moreover, the proposal is contrary to CMO19 which seeks to support improvements to the pedestrian network including the removal of barriers to active movement, in order to improve connectivity and permeability and CMP14 which seeks to implement the provisions of DMURS in relation to the delivery of safe streets and promote the principle of filtered permeability in new developments.

- 7.2.5. In the absence of contrary evidence, I therefore consider the proposed development would endanger public safety by reason of traffic hazard due to an obstruction of the public footpath for pedestrians and other such users including the most vulnerable.

Substandard Sightlines

- 7.2.6. Given the proximity of the structure to the access and car park to the rear of the public house, the Planning Authorities 1st refusal reason also references substandard sightlines. The applicant's appeal submission appears to have misinterpreted the particular area of concern and provided a sightline layout drawing from the junction of the Belcamp Manor estate road onto the Malahide Road. The drawing illustrates sightlines of roughly 2.4m by 90m in both directions and I accept that this is accurate.
- 7.2.7. The easterly sightline on exiting the car park is completely blocked however and whilst I accept that it is a low-speed environment, minimum DMURS standards should be achieved and would be achieved in the absence of the structure to be retained. Whilst I also note that the car park has capacity for a limited number of cars, c. 18, it is anticipated that the traffic movements will be relatively frequent given that it serves commercial premises and apartments. I therefore consider that the proposal would endanger public safety by reason a of traffic hazard due to a sightline obstruction.

Material Contravention

- 7.2.8. The Planning Authority's 2nd refusal reason relates to prematurity pending the delivery of the proposed East-West link road south of the appeal site. This, the Planning Authority states, would materially contravene Objective DMS131 of the Fingal Development Plan 2017-2023. Objective DMS131 sought to provide building setbacks along *inter alia* sub-standard Regional and Local Roads to allow for future improvements to enable the provision of a safe and efficient network of public roads.

- 7.2.9. The current Development Plan came into effect on 5th April 2023 and a similar, albeit less specific, policy approach is reflected in Objective DMSO116, as cited above. This objective outlines a general approach to ‘building setbacks’ and is not, in my view, sufficiently specific so as to justify the use of the term “materially contravene” in terms of normal planning practice. The Board should not, therefore, consider itself constrained by s. 37(2) of the Planning and Development Act 2000 (as amended).

Prematurity

- 7.2.10. The planning history pertaining to Belcamp Manor and the public house acknowledges a proposed road scheme referred to as the East-West link road (EWLR). A section of the road is proposed to link the Malahide Road (R107) with Stockhole Lane to the west. It is explicitly referenced in Condition 7 of PA ref. F18A/0167 and requires land at the Malahide Road junction to be made available, with an alternative access to be provided off the new EWLR and the current access to Belcamp Manor closed up.
- 7.2.11. The indicative alignment is illustrated as a ‘Road Proposal’ in the Development Plan zoning objectives map (Sheet No. 9 refers). The road scheme is linked to the delivery of residential development on the Belcamp Hall lands, as detailed above in section 4.2. The applicant submits that the design of the East-West link road is at an advanced stage and no major changes are expected. They therefore submit that the proposal would not impact the road design notwithstanding a ‘current appeal’ on the Belcamp Hall lands and would not contravene the Objective DMS131 of the Development Plan.
- 7.2.12. I note that three separate appeals, permitting a total of 195 no. residential units, have been decided on the Belcamp Hall lands and subsequent to the applicant’s appeal submission. As noted, Condition 5(a) of ABP-312060-21 requires the final junction design etc. of the EWLR with the Malahide Road to be agreed in writing with the Planning Authority prior to commencement. I have also reviewed the details of ABP-312848-22 and ABP-314169-22, and I note that both include sections of the EWLR.
- 7.2.13. In this regard, I note that the subject appeal site is contained within the application site boundary of the proposal permitted under ABP-312060-21, and whilst I accept that the design of the EWLR is at an advanced stage and it would be reasonable for the appellant to presume that ‘no major changes are expected’, it is clear to me that the road scheme has yet to be determined as per Condition 5(a) of ABP-312060-21. It is equally clear that the proposed development has the potential to impact on this final

design, however slight an impact that may be, and I am therefore satisfied that the proposed development is premature pending the determination of a road scheme. This prematurity is not, however, in material contravention of Objective DMS131.

7.3. Visual Amenity

- 7.3.1. The Planning Authority's 3rd refusal reason partly relates to visual amenity impacts by reason of *ad hoc* and haphazard design etc., together with its prominent location in proximity to lands subject to residential development. It considered that the structure would present as an intrusive and incongruous feature within this emerging context which would be seriously injurious to the visual amenities of the area. The applicant contends that the overall massing appears modest when compared to the existing public house with a setback from the building line when facing onto the Malahide Road.
- 7.3.2. The proposed development, as described in section 2.0, is currently *in situ*, save for some minor modifications to the roof structure and removal of the timber guarding, as noted previously. Although I accept that the scale of the proposal is relatively modest, I agree with the Planning Authority that it is visually incongruous, having specific regard to the materials and finish, and represents a disorderly form of development. Coupled with its prominent corner site location, the proposal, which lacks any architectural merit, is considered seriously injurious to the visual amenities of the area.

7.4. Residential Amenity

- 7.4.1. The Planning Authority's 3rd refusal reason also relates to undue impacts on existing and future residential amenity by reason of intensification of use. Several of the houses in Belcamp Manor have been completed and occupied, the closest of which lies c. 35m west of the site. The remainder of the 56-unit development was under construction at the time of my inspection. The planning history for this residential development includes 3 no. apartments above The Balgriffin Inn. The screened balcony and internal areas of the nearest apartment is within 8m of the proposal.
- 7.4.2. It is unclear whether the Planning Authority's concerns over the 'intensification of use' relates to the proposal alone or in combination with the existing public house. I note that the Planning Officers Report, the basis for the Planning Authority's decision, appears to accept the principle of the development having specific regard to Objective ZO5 of the Development Plan 2017-2023 and notwithstanding 'public house' being a

non-conforming use in the zoning. This objective sought to *inter alia* permit reasonable intensification and extensions to premises accommodating non-conforming uses etc.

- 7.4.3. An identical objective is reflected in Objective ZO3 of the current Development Plan, as cited above. I am not therefore convinced that the Planning Authority has presented sufficient, or indeed any, justification to warrant the inclusion of residential amenity impacts by reason of intensification of use. Such justification would, to my mind, include material planning issues including impacts from additional noise, traffic etc. I do not, therefore, consider that this aspect of the refusal reason should be upheld.

Noise – New Issue

- 7.4.4. As noted, the proposed development has capacity for at least 36 no. seated patrons in the ‘dining area’ and 12-15 no. patrons in the unseated area which I can corroborate following my site inspection. I also observed a television screen and a speaker in the seated/dining area. I therefore have significant concerns regarding the impact of noise generated by the proposal on the occupants of the adjacent houses and apartments generally, and the occupant of the nearest apartment specifically. In the absence of a noise impact assessment, I have no information before me to determine the scale of the impact against relevant guidance. This is a new issue, and the Board may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal set out below, it may not be considered necessary to pursue the matter.

7.5. Appropriate Assessment

- 7.5.1. Having regard to the nature and scale of the proposed development, which is for the retention of a structure and use of the area for licensed premises use, including as a beer garden, in an established and serviced urban area, the distance from the nearest European site, no Appropriate Assessment issues arise. Therefore, it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

8.0 Recommendation

- 8.1. I recommend that permission be **refused** for the reasons and considerations below.

9.0 Reasons and Considerations

1. The proposed development represents a physical barrier to active movement, connectivity and permeability, and obstructs sightlines from the car park to the rear of The Balgriffin Inn onto the adjoining estate road, thus creating an unsafe street contrary to CMO19 and CMP14 of the Fingal Development Plan 2022-2028 and the Design Manual for Urban Roads and Streets, and would therefore endanger public safety by reason of a traffic hazard or obstruction of road users or otherwise.
2. In the absence of a final design for the junction of the East-West link road and the Malahide Road (R107), and having regard to its proximity to the appeal site, the development of the kind proposed would be premature pending the determination by the planning authority of a road layout for the area or any part thereof.
3. The proposed development, being haphazard in design, with inappropriate materials and finishes, together with its prominent location in proximity to residential development, represents visually incongruous, disorderly development which is seriously injurious to the visual amenities of the area. The proposed development would, therefore, 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.

Philip Maguire

Planning Inspector

23rd October 2023

Appendix 1

Form 1 – EIA Pre-Screening

Case Reference	ABP-315120-22		
Proposed Development Summary	Retention of a structure and use of the area for licensed premises use including as a beer garden		
Development Address	Lands adjacent to The Balgriffin Inn, Malahide Road, Balgriffin, Dublin 17		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q.3
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]?			
		Threshold	Comment (if relevant)
			Conclusion
No	X	N/A	No EIAR or Preliminary Examination required
Yes			Proceed to Q.4
4. Has Schedule 7A information been submitted?			
No		Preliminary Examination required	
Yes		Screening Determination required	

Inspector: _____

Date: _____