



An
Bord
Pleanála

Inspector's Report ABP318737-23

Development	Retain a fixed glazed canopy over an external terrace to a public house
Location	Peadar Browns, 1A Clanbrassil Street, Lower, Dublin 8
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4567/23
Applicant(s)	Gaelco t/a Peadar Browns
Type of Application	Retention Permission
Planning Authority Decision	Refuse
Type of Appeal	First Phird Party
Appellant(s)	Gaelco t/a Peadar Browns
Observer(s)	None
Date of Site Inspection	4 th February 2024
Inspector	Hugh Mannion

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1.0 Site Location and Description

- 1.1. The application site comprises a raised area of about 20m² which wraps around the front façade of a public house on the corner of Malpas Street and Clanbrassil Street, Dublin 8. The area is partially enclosed by a glazed canopy with an access door and steps. The public house is part of a larger 3 storey block with commercial uses at ground floor and apartments above.

2.0 Proposed Development

- 2.1. Retain a fixed aluminium glazed canopy to the front and side elevations covering an external terrace of 20m² with two cut-out image signage panels to the side elevation facing Malpas Street all at Peadar Browns public house at 1A Clanbrassil street, Dublin 8.

3.0 Planning Authority Decision

3.1. Decision

Retention permission refused for 2 reasons.

1. The proposed development is located in an area zoned Z1 Sustainable Residential Neighbourhoods in the Dublin City Development Plan 2022 – 2028. The proposed development would provide for the permanent extension of the public house which, through noise and general disturbance, would negatively impact on the residential enmity of adjoining property and would be contrary to the proper planning and sustainable development of the area.
2. The two cut out image panels along with the canopy would, because of their nature, scale and location give rise to undue negative visual impact contrary to the Shop Front Design Guidelines and the provisions of the Dublin City Development Plan 2022 – 2028.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The planner's report recommended refusal for the reasons set out in the Chief Executive's order.

3.2.2. Other Technical Reports

3.2.3. **Transport Planning** reported and recommended that additional information be sought as parts of the canopy overhang the public footpath.

3.2.4. **Air Quality Monitoring and Noise Control Unit** reported and recommended refusal because the application does not detail the purpose of the development or proposed noise mitigation measures.

3.2.5. **TII** reported that a condition requiring a contribution under Section 49 of the Act Luas Cross City Supplementary Development Contribution Scheme should be attached to any grant of permission.

4.0 **Planning History**

None relevant.

5.0 **Policy and Context**

5.1. **Development Plan**

5.2. The site is zoned Z1 with the objective "to protect, provide and improve residential amenity" in the Dublin City Development Plan 2022- 2028. Public house uses are 'open for consideration' in such zones.

5.3. In relation to shopfront signage the Development Plan in Chapter 16 (Section 16.24) and following) states that "shopfronts are one of the most important elements in defining the character, quality, and image of the streets in both the city centre and our urban villages/radial streets. Dublin City Council seeks to protect and retain traditional and original shopfronts and to encourage new and contemporary shopfronts that are well designed. This will protect local character and foster vibrant and successful retail centres. There should be a regular change and rhythm to

shopfronts to create visual interest, preferably a new shopfront, or a change to the design of a long shopfront, every 5-8 m”.

5.4. In relation to public houses the Plan states that matters that shall be taken into account by the planning authority in assessing planning proposals for these uses and extensions to such uses include, but are not limited to the following:

1. The amenity of neighbouring residents and occupiers
2. Hours of operation
3. Traffic management
4. Shop frontage treatment and impact on streetscape,
5. Proposed signage.

5.5. **Natural Heritage Designations**

Not relevant

5.6. **EIA Screening**

5.7. The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage. OR

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- The subject area with the canopy over is licensed as part of the public house and provides an external area to accommodate tobacco smoking.
- The area is not, as claimed by the planning authority, a permanent extension to the public house use. The use is part of the public house is permitted with or without a canopy.

- The local community is supportive of the proposed development.
- The covid pandemic required innovative design of many business premises to facilitate use of outdoor space – this is one such measure.
- The cut-out images refer to the sporting culture of the surrounding area and do not negatively impact on the visual appearance of the premises or negatively impact on the area.

6.2. Planning Authority Response

- The planning authority asks the Board to support its decision to refuse but in the event of a grant contribution conditions should be applied under Section 48 and Section 49 of the Act.

6.3. Observations

- None

6.4. Further Responses

- None

7.0 Assessment

- 7.1. The application site comprises the northern corner/end of a three-storey mixed use building which accommodates the public house use and 4 restaurant/take-ways at ground floor with residential apartments above (the Old Mill Apartments). The shopfront heights/fascia height for all the commercial uses is uniform. There are two storey and three storey terraced houses on the opposite side of Clanbrassil Street from the application site. The application site/existing three storey building turns the corner from Clanbrassil Street into Malpas Street and there is small square of two storey houses accessed from Malpas Street. Directly opposite the application site on the other corner of Malpas Street/Clanbrassil Street is a motor repair/motor factors business. I conclude therefore that the area is one of mixed uses with predominantly residential, commercial, and community uses.

7.2. The applicant is correct in that this application is for retention of amendments to an existing permitted public house use. The potential impact on the residential amenity of housing in the area of the main public house use is not properly part of an assessment of this application. In terms of the impacts on adjoining residential uses the issue is confined to the area enclosed in the unauthorised canopy. This floor area is calculated as 20m² and this appears accurate. I agree with the applicant that the covid pandemic highlighted a need to allow open air social spaces which would allow individuals to socialize outdoors. Having regard to the limited floor area involved, the permitted use of the premises as a public house and subject to the condition set out below, I conclude that the proposed development is a minor and reasonable addition to the permitted and existing public house use.

7.3. **Noise.**

7.4. The planning authority's Air Quality Monitoring and Noise Control Unit recommended refusal because of the potential for noise emanating from the proposed enclosed terrace. There are no sources of broadcast noise shown on the submitted plans/drawings. I was unable to identify any amplification equipment on the façade of the building during my site visit. I recommend that this issue can be addressed by way of a condition as set out below.

7.5. **Shopfront Design/Signage.**

7.6. The public house use is the 5th commercial unit at ground floor level in this overall mixed-use building. The shopfront design (height, width, and materials) is generally uniform between the five uses and I consider generally complies with the City Development Plan policies in relation to shopfront design. This application seeks to retain two cut out signage boards (see especially Moda Architects drawing number 919-RP-02 dated 27th September 2023). The appeal makes the point that these signs are reflective of the sporting culture in the area and do not negatively impact on the visual amenity of the area. Notwithstanding this point I consider that any sporting reference within the signage is tangential to what is commercial advertising for a well-known stout. There is already ample advertising attached to both facades of the public house (onto Clanbrassil Street and Malpas Street) and I agree with the planning authority that these signs add unnecessary visual clutter to the area.

7.7.

7.8. Overhang of Public Footpath.

7.9. The planning authority's Transport Planning section makes the point that the canopy partially overhangs the public footpath. The application drawings appear to confirm this point and the drawings are annotated – "projecting canopy to be set back to boundary line". I conclude that the point may be subject to a condition attached to a grant of permission as set out below.

7.10. Section 49 Contribution

7.10.1. The submission to the planning authority at application stage from Transport Infrastructure Ireland makes the point that the proposed development will benefit from the Luas Cross City tram and that a condition under the Section 49 Luas Cross City Supplementary Development Contribution Scheme should be attached to any grant of permission. The planning authority's submission to the Board requests the imposition of development contribution condition relating to the ordinary Section 48 scheme applicable in Dublin City.

7.11. It may be that such conditions are not appropriate in the case when no additional floor area is proposed. Nonetheless I attach the conditions in the draft order below which allows for an appeal back to the Board in the event of a disagreement between the applicant for permission and the planning authority on the level of contribution.

7.12. Appropriate Assessment Screening

7.13. Having regard to the nature and scale of the proposed development, to the absence of emissions therefrom, the nature of receiving environment as a built up urban area and the distance from any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an AA at an initial stage.

8.0 Recommendation

8.1. I recommend a grant of planning permission.

9.0 Reasons and Considerations

The application site comprises part of an established public house use in an area zoned for residential development in the Dublin City Development Plan 2022-2028

where such uses are open for consideration. Having regard to the nature of the proposed use as a sitting out area associated with an established public house use and its modest scale and subject to compliance with the conditions set out below it considered that the proposed development would not seriously injure the residential amenity of residential property in the area or otherwise detract from the visual amenity of the area and would be in accordance with the provisions of the current Dublin City Development Plan and the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Within 6 months of the date of this order the developer shall :-</p> <ul style="list-style-type: none"> a) Remove the two cut out signage boards on the Malpas Street façade of the premises. b) Set back the canopy within the boundary of the applicant's property. <p>Reason: In the interest of public health.</p>
3.	<p>No music or amplified sound shall be audible outside the premises in such a manner as to cause nuisance to the occupants of nearby property.</p> <p>Reason: In the interests of amenity.</p>
4.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.</p>

	Reason: In the interest of public health.
5.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
6.	<p>The developer shall pay to the planning authority a financial contribution in respect of Luas Cross City (Stephens Green to Broombridge Line in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the</p>

	<p>matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p>.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.</p> <p>.</p> <p>.</p>
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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.

Hugh Mannion
Senior Planning Inspector

6th February 2024