



An
Bord
Pleanála

Inspector's Report

ABP-320105-24

Development

(i) Change of use of part of ground floor of 2 Ross Terrace from shop to cafe/restaurant/wine bar; (ii) a ground floor extension to the rear of nos. 1 and 2 Ross Terrace; (iii) landscaping and fencing to the rear of the premises and all site development works.

Location

2 Ross Terrace, New Street,
Malahide, County Dublin.

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F24A/0185

Applicant(s)

Gilbert and Wright Malahide Ltd

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Mary Lynch
Majella Dunne
Nicola Byrne
Elizabeth Dolan

Observer(s)

none

Date of Site Inspection

28th August 2024

Inspector

Aisling MacNamara

1.0 Site Location and Description

- 1.1 This proposal relates to an existing vacant retail unit that is located at No. 2 New Street in heart of Malahide town. The retail unit occupies a modest two storey period building. The building has been subdivided to form two separate ground floor commercial units (the subject vacant shop unit and the adjoining coffee shop hatch unit) and first floor unit with recent permission for conversion to apartment use.
- 1.2 New Street is an attractive street that accommodates a mixture of commercial and residential uses. The street has benefitted from public realm improvements to pedestrianise the street. This has allowed for businesses to use parts of the footpath and street for outdoor seating and dining. Tables, chairs, screens and planters have been installed to the front of the subject building.
- 1.3 The adjoining building to the north is occupied by Gilbert and Wright public house and a restaurant. The adjoining building to the south is occupied by a takeaway, dental studio and bookmakers. There is a yard to the rear of the building that has a rear boundary with an access to a cul de sac square that is used by the adjoining properties for access, parking and servicing. This square is accessed via a narrow laneway from New Street that abuts the northern side of the Gilbert and Wright premises. This laneway and cul de sac square serve the nearby dwellings Ross Cottages.

2.0 Proposed Development

- 2.1 The proposed development comprises:
- the change of use of part ground floor (70sqm) from shop to café / restaurant / wine bar,
 - a ground floor extension (45sqm) to rear of no.s 1 and 2 Ross Terrace as part of the proposed café / restaurant / wine bar and store,
 - landscaping and fencing to the rear,
 - to retain the existing shopfront and to replace the signage.

3.0 Planning Authority Decision

3.1 Decision

3.2 Following a Further Information request on 23rd April 2024 and subject to Further Information received on 23rd May 2024, the planning authority issued a notification of decision to grant permission subject to ten conditions. Conditions of note include:

Condition 2 – restricts change from permitted use to be subject of a new grant of permission.

Condition 3 – the development shall be used for the purposes of a café / restaurant / wine bar with the primary use being the sale of hot and cold food / drinks for consumption on the premises.

Condition 4 – the hours of operation shall be between 07.00 to 23.00 Monday – Sunday.

Condition 5 – commencement to development, revisions are to be submitted relating to boundary fence to allow for improved visibility between car parking space and the public laneway / road, no gate shall open across public footpath / roadway

3.3 Planning Authority Reports

3.3.1 Planning Reports

- Further information was requested in relation to the following matters:
 - To clarify if outdoor seating / smoking area is proposed including any required noise mitigation measures, having regard to condition 4 of PRR F23A/0044.
 - Provide additional details regarding lighting and design of shopfront signage,
 - Cycle parking,
 - Show satisfactory sightlines at the vehicular entrance to the car parking space and satisfactory visibility of pedestrians with consideration to be given to providing a 4m wide vehicular entrance,

- Clarify reduction in carparking adjacent to the northeast fence and clarify the use of the single space.
- The applicant submitted a response to the further information request providing the following additional information:
 - Confirmed that there is no outdoor seating proposed as part of the development,
 - Submitted revised drawings for shopfront signage and lighting,
 - 4 cycle spaces to be provided to the rear,
 - Confirm that no car parking spaces are associated with the proposed development. The single car parking space not part of the development is used solely by the owner of the overall site
- The response of the applicant to the further information request was considered acceptable and the planner recommended grant of permission, consistent with the notification of decision issued. The key considerations included the following:
 - Satisfied that the proposed use is in accordance with the zoning objective. It is noted that the site is within the Malahide Core Retail Area.
 - The design of the shopfront is acceptable in the Malahide Historic Core ACA.
 - The car parking space to the rear and access to the laneway is acceptable on traffic safety grounds, subject to condition for revised design of rear fence.
 - No outdoor seating is proposed as part of the development. The potential for increased noise and disturbance to impact the amenity of the area is considered to be significantly reduced.

3.3.2 Other Technical Reports

- Transportation Section submitted reports at initial application and at further information stage raising the following issues:

- The first report sought additional information regarding concerns regarding the adequacy of sightlines at the opening of the vehicular access to the car parking, requested the applicant to demonstrate pedestrian vehicular inter visibility at the interface of the entrance with the public footpath / shared surface, no objection to the number of car parking spaces proposed, sought clarification on the use of the car parking space, requested that cycle parking should be provided in accordance with standards of County Development Plan,
- After submission of further information, the second report stated no objection to the proposed development subject to two conditions being attached to address concerns regarding the adequacy of sightlines at the opening of the vehicular access to the car parking space and the laneway. The recommended conditions required that the proposed boundary fence along the eastern boundary of the site be amended to provide a clear 4m opening and that no gate shall open across the roadway.
- The Conservation Officer submitted reports at initial application and at further information state raising the following:
 - The first report notes that the site is in the boundary of the Architectural Conservation Area for Malahide Historic Core. The Officer sought additional information regarding the design of the signage and lighting and raises no objection to the extension.
 - The second report states that revised signage proposals are acceptable and that condition should be attached regarding lighting and timing when switched on.
- Water Services – no objection subject to measures for surface water management.

3.4 Prescribed Bodies

None

3.5 Third Party Observations

3.5.1 Issues raised are summarised as follows:

- Results in overdevelopment of the site
- Adverse impact on residential amenity of surrounding properties and first floor apartment.
- Concern regarding the balance of uses on the street noting excessive concentration of catering uses, bars and restaurants, increased retail use would promote better balance of uses.
- Increase in anti social behaviour and disturbance.
- Increase in noise impacting on surrounding residential properties including no noise assessment carried out.
- The sewer does not have capacity to accommodate the additional load.
- Concerns that the external area will be used as outdoor area, will be used as beer garden and smoking area for the existing gastro pub and there is risk that condition 4 of F23A/0044 will not be complied with.
- Concern regarding reduced parking on the site and additional demand for parking on the laneway.
- Use of the laneway for bins obstructs laneway and health hazard.
- Failure to comply with previous permissions and licensing requirements.
- The application is invalid and incomplete – drawings incomplete, fails to indicate hours of operation and use in conjunction with other business.

4.0 **Planning History**

The following planning history relates to the appeal site and the building 2 Ross Terrace:

- F23A/0044 – Grant – May 2023– Retention of: a) a new door from lounge at ground floor level in lieu of previous window, and b) a timber fence including a double gate ranging in height from 1.84m to 2.24m at the boundary of the yard area, all to the rear of 2 Ross Terrace, New Street with access from Ross cottages, Malahide, Co. Dublin, serving Gilbert & Wright , 1 Ross Terrace

Condition 2 – The side access door to yard shall be restricted to deliveries only and not used as general access for staff and customers.

Condition 4 – The enclosed yard shall not be used as a smoking area or beer garden.

Condition 5 – The bins and barrels associated with the site shall be stored within the enclosed yard area and not on the public road / laneway.

- SFL/015/22, ABP-312761-22 – Grant with revised conditions – s254 street furniture licence to café – 2 Ross Terrace, New Street
- F21A/0491 – Grant - permission for Change of use to first floor (former hairdressers) from shop to residential accommodation and all associated site works.
- F20A/0633 – Grant – permission for New timber bi-fold sliding glazed windows to replace existing glazing in timber shopfront, new backlit signage and paint to existing timber shopfront and all associated site works. Bi-fold windows when opened are to provide access for hot food takeaway service served to customers on New Street. Proposal includes change of use to shop café with takeaway use.

5.0 Policy Context

5.1 Fingal Development Plan 2023-2029

The site is zoned TC Town and District Centre where the objective is “Protect and enhance the special physical and social character of town and district centres and provide and / or improve urban facilities.” The use ‘restaurant / café’ and ‘public house’ is permitted in principle in this zone. The site is within the Malahide Core Retail Area.

- 5.1.1 The site is located within the Malahide Historic Core Architectural Conservation Area.

Chapter 2 Planning for Growth, Core Strategy, Settlement Strategy

Malahide is a Self-Sustaining town within the RSES.

Policy CSP35 – Promote the planned and sustainable consolidation of the existing urban form and protect the unique identity of Malahide. The need to upgrade and support the development of the town centre will be balanced with the need to conserve its appearance as an attractive, historic village settlement and to retain the existing amenities of the area, being cognisant of its proximity to the ecologically sensitive coastline including European Sites

Chapter 6 Connectivity and Movement

Objective CMO32 – Implement appropriate car parking standards for a range of land-use types, where provision is based on factors such as site location, level of public transport accessibility and impact of parking provision on local amenity.

Chapter 7 Employment and Economy

Objective EEO11 - Ensure that towns, villages and other locations within the Metropolitan Area pursue development policies of consolidation, and maximise their economic strengths and competitive advantages such as tourism and marine sectoral activities in Malahide and Howth, while the lands within the southern part of the County maximise their economic potential through the strong functional linkages to the M50 and the lands to the north of the County maximise their economic potential through strong links to the M1 and the wider regional and national road network.

Objective EEO33 – Support and facilitate evening / night-time economy uses that contribute to the vitality of towns and villages, ensuring the creation of a safe, balanced and socially inclusive evening / night-time economy.

Objective EEO34 – Support uses that would result in the diversification of the evening and night-time economy in towns and villages where there is no negative impact on the amenity of adjacent residential uses through noise disturbance or cumulative impact in terms of other night-time uses in the immediate area.

Objective EEO45 – Promote and facilitate tourism as one of the key economic pillars of the County's economy and a major generator of employment and to support the provision of necessary significant increase in facilities such as hotels, aparthotels, tourist hostels, cafes and restaurants, visitor attractions, including those for children.

Objective EEO93 – Ensure the development of Balbriggan, Malahide, Skerries and Charlestown, as sustainable, vibrant and prosperous Town Centres performing at a high retail level within the Fingal Retail Hierarchy to meet the retailing needs of and offer sufficient retail choice to their local populations and catchment populations.

Objective EEO94 – Facilitate appropriately scaled improvements to the quantum and quality of retail offer and function in Balbriggan, Malahide, Skerries and Charlestown and ensure their sustainable development by consolidating, intensifying and enhancing their existing core retail areas, and by directing new retail opportunities into the core retail areas identified for each.

Objective EEO95 – Ensure that the Level 3 Town Centres have a retail offer that is sufficient in terms of scale, type, and range without adversely impacting on or diverting trade from the higher order retailing locations.

Objective EEO102 –Maintain and strengthen the vitality, viability and regeneration of the County's Major Town, Town, Local and Village Centres by providing for civic, leisure, cultural and tourism attractions while ensuring that retailing remains a core function of these centres.

Objective EEO103 –Promote the use of vacant floor space in our major town centres, town centres, local centres and villages and support proposals for refurbishment and replacement of obsolete buildings/units within these centres.

Chapter 10 Heritage, Culture and Arts

Policy HCAP14 –Protect the special interest and character of all areas which have been designated as an Architectural Conservation Area (ACA). Development within or affecting an ACA must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting wherever possible. Development shall not harm buildings, spaces, original street patterns, archaeological sites, historic boundaries or features, which contribute positively to the ACA.

Objective HCAO24 –Require proposals for any development, modification, alteration, extension or energy retrofitting affecting a Protected Structure and/or its setting or a building that contributes to the character of an ACA are sensitively sited and designed, are compatible with the special character, and are appropriate in terms of

the proposed scale, mass, height, density, architectural treatment, layout, materials, impact on architectural or historic features.

Chapter 14 Development Management Standards

14.4.2 High Quality Urban Design

14.4.4 Town and village Centres

Objective DMSO6 –Assess planning applications for change of uses in all urban and village centres on their positive contribution to diversification of the area together with their cumulative effects on traffic, heritage, environment, parking and local residential amenity

14.4.4 Town and Village Centres

14.4.5 Shopfront Design

14.5 Consolidation of the built Form: Design Parameters

14.19.3 Architectural Heritage

14.19.3.3 Architectural Conservation Areas

14.17.7 Car Parking

Appendix 5 Summary Description of Architectural Conservation Areas

5.2 Natural Heritage Designations

Malahide Estuary SPA is located approximately 110m to the northeast of the site.
Malahide Estuary SAC is located approximately 130m to the northeast of the site.

5.3 EIA Screening

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

6.0 The Appeal

6.1 Grounds of Appeal

The grounds of appeal can be summarised as follows:

- Noise and disturbance arising from the development will impact residential amenities. No noise impact assessment was carried out.
- The existing development stores bins, barrels and material on the adjoining laneway which is a right of way public road. These obstruct the laneway and are poorly managed and result in nuisance, are unsightly, cause traffic hazard, health hazard. The bins should be within the applicants property.
- The development will contribute to further anti social behaviour.
- Results in an over concentration of food and beverage uses in the area leading to an unbalanced mix of uses.
- The development will result in increased demand for limited car parking spaces on the access square.
- Failure to take account of the development proposal in conjunction with the adjoining bar that is operated by the applicant.
- Any rear access should be for fire exit only. There should be no access from the rear square.
- Applicant has history of breaching licence conditions and not complying with planning permissions, including relating to noise and hours of operation.
- The application is invalid due to incomplete drawings and details.
- Condition 8 (construction hours) is unreasonable and allows for deviation subject to approval from the planning authority and thereby excludes the public from participating.

6.2 Applicant Response

The applicants response to the grounds of appeal can be summarised as follows:

- Waste will be stored at the fenced off area (subject of F23A/0044) and the current application. The majority of bins on the lane belong to other properties, the photographs are old, conditions can mitigate impacts.
- Regarding noise, there will be no outdoor use, the development is within an enclosed structure, operating times are acceptable, any music would be low level background, proposed use is wine bar not public bar.
- Regarding anti social behaviour on the square, there are pre existing issues associated with other adjoining premises, there will be no access from the wine bar onto the square, the proposed development will not create or intensify problems.
- One on site parking space is provided for the owner of the building, parking for customers will be on the public roads.
- The adjoining building is owned by a third party and a company associated with the applicant.
- The attaching of conditions is standard, the client holds licence to operate, the planning authority has issued a warning letter regarding side door – retention granted under F23/0044.
- Regarding balance of uses on the street, the property is in commercial use and New Street is a primarily a commercial street, it's a matter for the planning authority to consider impacts of commercial uses on residential amenity.
- Regarding monopolisation of New Street with food and beverage uses, the planning authority have pedestrianised New Street and have encouraged outdoor tables and chairs. The proposed wine bar is within the building and could not be a significant increase in concentration of hospitality uses on New Street.
- The development is in character with the area and will not adversely impact on residential amenities.

6.3 **Planning Authority Response**

The planning authority's response to the grounds of appeal is a request that the decision to grant permission be upheld.

6.4 **Observations**

None

6.5 **Further Responses**

None

7.0 **Assessment**

7.1 Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant policies and guidance, I consider that the substantive issues to be considered are as follows:

- principle of development
- noise and disturbance
- bins and litter
- anti social behaviour
- access and car parking
- procedural matters
- shopfront design
- Appropriate Assessment screening

7.2 **Principle of development**

7.2.1 The site is located in the centre of Malahide village on lands zoned Town and District Centre where the objective is to "Protect and enhance the special physical and

social character of town and district centres and provide and / or improve urban facilities”.

7.2.2 The proposed development is a change of use of part of the existing ground floor of 2 Ross Terrace from shop (with rear office) to café / restaurant/ wine bar and to construct a rear extension to be also used also as part of the café / restaurant / wine bar. The proposed use as café/ restaurant / wine bar is permitted in principle in this zone and is consistent with the zoning objective.

7.2.3 Malahide is a level 3 town centre in the Fingal Retail Hierarchy. Objectives EE093, EEO94 and EE095 of the Fingal Development Plan set out objectives for level 3 town centres. These centres are to develop as sustainable, vibrant and prosperous town centres. The site is within the core retail area where it is the objective to facilitate improvements of retail officer and to consolidate, intensify and enhance the existing core retail areas. The retail core extends along sections of New Street, Town Yard Lane and The Mall and contains a good mix of shops, services and residential use. The development relates to a small vacant shop unit and I do not consider that the loss of the retail use would compromise the role and function of the retail offer in the centre and that the centre would continue to be provided with satisfactory quantity and choice of retail offer to ensure that retailing remains as a core function.

7.2.4 This section of New Street has been pedestrianised. This has allowed food and beverage operators to provide outdoor seating and tables. I consider that the proposed café / restaurant / wine bar would provide a commercial leisure use in accordance with objective EEO11 which states that towns such as Malahide should pursue development opportunities associated with tourism and marine. I also consider that the proposal is in accordance with objective EEO33 to facilitate evening and night time economy uses and EEO45 to facilitate tourism uses including cafes and restaurants.

7.2.5 The proposal to bring an active commercial use into this vacant ground level unit with street frontage will improve the vibrancy of the site, consolidate the town centre and improve the appearance of the streetscape. This is consistent with objectives

EEO103 and EEO102 to promote the use of vacant floor space and to support regeneration and vitality in centres.

- 7.2.6 In conclusion, I consider that the proposed change of use from retail to café / restaurant / wine bar would enhance the character of the area and would improve urban facilities on the street. The development is in accordance with the zoning objective.

7.3 Noise and disturbance

- 7.3.1 Third parties have raised concerns regarding the potential of the development to create disturbance due to noise.

- 7.3.2 There is a separation distance of c 13m between the rear boundary of the site and the dwellings at Ross Cottages. There is a separation distance of c 11m between the rear elevation of the proposed extension and the rear site boundary. Permission was granted under F21/0491 to convert part of the first floor of no. 2 Ross Terrace to residential accommodation.

- 7.3.3 The rear extension is to have a glazed roof window and glazed vertical windows to walls to the rear elevation. The roof windows have an area of c 13.5sqm in area. The glazed walls have a span of 5.4m across the wall and are sliding windows which can be opened. The rear extension faces onto an external outdoor area that is accessed directly from the restaurant via a fire door and from the side access to staff areas. Permission was granted under F23A/0044 to the applicants for the retention of a new door from the lounge of the adjoining Gilbert and Wright premises to this outdoor area. This door is shown on the drawings. A condition was attached to the permission restricting the use of this door to deliveries only and not for use as a general access for staff or customers.

- 7.3.4 This is a mixed use town centre location containing a broad mix of commercial and residential uses. Urban town centre locations by their nature have a certain level of ambient noise. The Fingal Development Plan includes objective EEO34 which supports evening and night uses where there is no negative impact to the amenity of adjacent residential uses through noise disturbance or cumulative impacts in terms of other night time uses in the immediate area. In this regard, I note there are a

number of other bar and restaurant premises with rear boundaries to Ross Cottages including the adjoining Gilbert and Wright , Gibney's public house and Siam Thai.

7.3.5 No noise impact assessment is submitted. It is unclear therefore what, if any, level of noise would result from the development. There may be some noise impact from the opened roof windows and sliding wall windows. While the rear door is a fire door, there is a risk that patrons would use the door to access the rear outdoor space for smoking etc. Whilst it is open to the Board to request a noise impact assessment by way of further information, I am satisfied that, having regard to the town centre location, the size and nature of the proposed use, the lack of outdoor seating and the separation distance to residential properties, that there is a low risk of adverse noise arising from the development in conjunction with adjoining commercial properties and that this risk can be addressed by mitigation conditions. In this regard, conditions are recommended relating to the design of the windows and doors, the use of the fire exit and to the hours of opening. Having regard to the town centre location, the commercial nature of the premises and the need to protect residential amenities, it is considered that hours of operation between 0700 and 2300 would be acceptable.

7.4 Bins and litter

7.4.1 Concerns have been raised in relation to the storing of bins for the use of the premises. The drawings show three larger bins for commercial use located within the rear yard of the site. The yard is enclosed and screened by a 2m fence. I am satisfied that the bins are large enough to provide for the needs of the development. There is also sufficient space within the yard for storage of barrels or other material. The litter and waste will be contained and screened so as to avoid visual or odour nuisance. The bins will be located within the rear yard and therefore will not interfere with vehicles and pedestrians on the laneway.

7.4.2 I note that the third parties have submitted photographs showing the storage of bins, barrels and other material on the access laneway from New Street to the rear. This laneway is not part of the site and has double yellow lines along either side. As set out above, I consider that adequate provision has been made for storage of bins and other materials within the site. Any issues with obstruction of the laneway by bins is a matter for enforcement by the relevant authorities.

7.4.3 In conclusion, I am satisfied that adequate provision has been made within the site for the storage of refuse associated with the development and that there would be no adverse impacts on residential amenity or traffic hazard issues.

7.5 Anti social behaviour

7.5.1 Issues are raised regarding anti social behaviour on the laneway. Customers will access the property from the front and there is no rear access for customers. I do not therefore consider that the proposed change of use and extension will result in a material increase in any anti social behaviour.

7.6 Access and parking

7.6.1 The site is provided with a single existing parking space at the rear of the site. This parking space is outside of the red site boundary. The parking space is accessed via the side lane and rear square.

7.6.2 The application is for permission for development including fencing to the rear. I consider that the impact of this fencing on the parking arrangements requires consideration. It is noted that while permission is sought for fencing, the alterations have already taken place.

7.6.3 Historically the rear yard was used for parking of a number of cars. Under F23A/0044 permission was granted for retention of fencing around the yard which reduced the space for parking to two cars. In this subject proposal permission is sought for further alterations to the rear fencing so that the space is reduced again to now allow for parking of one car.

7.6.4 The Fingal County Development Plan sets out objectives and development management standards for car parking. Policy CMO32 states that appropriate car parking standards should be implemented and Section 14.17.7 of the plan sets out parking standards. The site is located in zone 1 where maximum standards apply, however the plan states that the standards do not apply where the development involves the re-use of an existing building, change of use or infill development. The Transportation Planning Section has no objection to the car parking provision proposed. I am satisfied that this is an accessible town centre location served by public transport and that the development proposal relates to an existing building

and therefore that the provision of one parking space for the building is acceptable and is consistent with Policy CMO32 of the development plan.

7.6.5 The fencing that has been erected separates the rear yard from the car parking space. The fencing is 2m high fencing. The rear square contains parking for residents. Condition 5 of the grant of permission required the applicant to submit further drawings to the planning authority to agree the final location of the fencing and to prohibit outward opening gates, in order to improve visibility from the car parking space. Having regard to the low speeds of vehicles at the square and on the laneway I am satisfied that vehicles would be able to enter and exit the car parking space safely and that the location and height of the fencing is acceptable and would not unreasonably obstruct sightlines and that further alterations to the fencing or gates is not required.

7.7 Procedural matters

7.7.1 Third parties have raised concerns that the application is incomplete and that the drawings do not show the applicants interest in other lands or properties adjoining the site. In this regard I note that the application was validated by the planning authority in accordance with the requirements of the Planning and Development Regulations 2001 (as amended). I am satisfied that there is sufficient information to allow for the assessment of the application. In its response to the appeal, the applicant has provided clarification regarding their interest in the adjoining property.

7.7.2 Third parties have raised issues regarding non compliance of the applicant with licences and conditions of planning permission. Enforcement of non compliance with licences and planning permissions is a matter for the relevant authorities.

7.7.3 Third parties have raised concerns that condition 8 is worded so as to allow for changes in the hours of operation of the premises. I am satisfied that condition 8 is a condition relating to the hours of construction and does not relate to the operation of the restaurant wine bar. In order to protect the amenity of residents during construction, a condition can be attached restricting the hours of construction.

7.8 Shopfront design

7.8.1 To accommodate the new development, it is proposed to alter the existing shopfront. The site is located within the Malahide Historic Core Architectural Conservation

Area. The Fingal County Development Plan sets out objectives relating to ACA including policy HCAP14 and HCA024 which aim to protect the character and appearance of an ACA. It is proposed to retain the existing shopfront and to make alterations to the signage including lighting. The final designs for the shopfront were submitted at further information stage which were deemed to be acceptable by the local authority's Conservation Officer. The drawings show the retention of the existing traditional shopfront which is to be painted and new lettering to the fascia sign with removal of the three lighting brackets and the installation of LED strip lighting in a concealed channel.

7.8.2 I am satisfied that the retention of the existing traditional shopfront including the proposed alterations are acceptable and will protect the special interest and character of the ACA.

7.9 AA Screening

7.9.1 The site is located c 115m to the south-west of Malahide estuary SPA and c.140m to the south-west of Malahide Estuary SAC. Having regard to the nature and modest scale of the proposed development, to the location of the site within a serviced urban environment and to the separation distance and absence of a pathway to any European site, 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

I recommend that permission be **granted** for the reasons and considerations below and subject to the attached conditions.

9.0 Reasons and Considerations

Having regard to the provisions of the Fingal Development Plan 2023-2029, the location of the proposed development within the settlement boundary of Malahide on zoned Town Centre lands, the small scale nature of the proposal and the context of the overall appeal site and the prevailing pattern and character of development in the

area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of neighbouring property, would not be prejudicial to public health, would not result in traffic hazard and would not unduly impact on the character of the Architectural Conservation Area in which it is located. The proposed development 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, as amended by the further plans and particulars received by the planning authority on the 23rd May 2024, 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.

Reason: In the interest of clarity.

2. (a) All entrance doors in the external envelope shall be tightly fitting and self-closing.
(b) All windows and roof lights shall be double-glazed and tightly fitting.
(c) Noise attenuators shall be fitted to any openings required for ventilation or air conditioning purposes.

Details indicating the proposed methods of compliance with the above requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect the residential amenities of property in the vicinity.

3. The fire exit door from the rear of the extension to the outdoor space shall be closed and shall not be for the use of patrons or staff, except in the case of an emergency.

Reason: To protect the residential amenities of property in the vicinity.

4. The hours of operation shall be between 0700 to 2300 Monday to Sunday.

Reason: To protect the residential amenities of property in the vicinity.

5. The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: To prevent flooding and in the interests of sustainable drainage.

6. Site development and building works shall be carried out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

Reason: To safeguard the amenity of property in the vicinity.

7. 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

A. MacNamara

Aisling Mac Namara
Planning Inspector

30th September 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP 320105-24		
Proposed Development Summary	Change of use part of ground floor of 2 Ross Terrace from shop to café / restaurant / wine bar, ground floor extension, landscaping, fencing and site development works		
Development Address	2 Ross Terrace, New Street, Malahide		
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) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	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)
No	x	N/A	No EIAR or Preliminary Examination required

Yes		Class/Threshold.....		Proceed to Q.4
------------	--	----------------------	--	----------------

4. Has Schedule 7A information been submitted?				
No			Preliminary Examination required	
Yes			Screening Determination required	

Inspector: Aisling Mac Namara **Date:** 30.09.2024