



An
Coimisiún
Pleanála

Inspector's Report

PL-501123-DS-26

Development	Retractable awning and timber side panelling
Location	McCloskeys Public House, 83-85 Morehampton Road Road, Donnybrook, Dublin D04 K589
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	WEB1154/26
Applicant	Tagatoni Ltd
Type of Application	Retention permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party v. decision
Appellant	Tagatoni Ltd
Observers	Three parties
Date of Site Inspection	16 June 2026
Inspector	B. Wyse

1.0 Site Location and Description

- 1.1. McCloskeys public house is located in the centre of Donnybrook Village within the main commercial strip along the west side of Morehampton Road. The premises comprises a street front 3 storey terraced building with 2 storey and single storey extensions to the rear and a rear garden area.
- 1.2. The garden area is generally enclosed by high walls and has been converted to an outdoor seating area/terrace. The subject retractable awning or canopy covers this entire area. The canopy has a barrel profile and is made up of a steel framework with a textile roof divided into a number of sections that retract individually from one side to the other. Decorative timber panelling has been installed around the perimeter of the terrace and the floor is finished in polished concrete or similar. There are large wall-mounted TVs/screens on three sides and seats and tables are arranged throughout.
- 1.3. The public house operates on the ground floor of the street front building and throughout the extended areas to the rear. It is divided into three distinct areas; a café to the street front; a traditional pub behind this; and the garden or terrace to the rear. There is a gated access to the rear from a lane off Marlborough Road that includes an archway under No.4 Marlborough Road.
- 1.4. Adjoining premises along Morehampton Road are generally in commercial use, including the upper floors. There is a 2 storey office building to the rear. The nearest residential properties are on Marlborough Road, the terrace comprising eight houses, No.s 4 -18, being the closest.

2.0 Proposed Development

- 2.1. Permission is sought to retain the retractable barrel roofed awning over the rear garden of the licensed premises and the associated timber side panelling. The awning can cover a stated area of 136sqm. It is 3.3m high at the eaves and 3.8m at the crown.
- 2.2. The application cover letter includes:
 - McCloskeys has been a 'local' for many years and the rear garden has been enjoyed by patrons.

- The canopy is lightweight, retractable and demountable. It enhances the property and is of low impact on adjoining properties being sandwiched between flat-roofed commercial buildings to either side and bounded by a blank wall two storey office structure to the end.
- Photographs of the garden area, the canopy and the interior space.

3.0 Planning Authority Decision

3.1. Decision

The decision to refuse permission cites the following reason:

It is considered that given the size, design, materials used and its location, the development for retention gives rise to an unacceptable level of disturbance for the amenities of the area and of property in the vicinity in particular noise disturbance to nearby residential units. It is considered that the applicant has not adequately demonstrated that the development for retention will not be detrimental to residential amenity, environmental quality or the established character of the area in accordance with section 15.14.12 of the Dublin City Development Plan. The proposal would devalue property in the vicinity, would create an undesirable precedent for similar type development and would therefore be contrary to the current City Development Plan and to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Report

Basis for decision. Includes:

- Approximately 1 year ago permission was refused for the development.
- Covering the entire rear garden area the canopy greatly increases the size of the public house.
- The space (under the awning) includes both a sound system and large screen.
- Similar to the previous application there is a lack of detail or consideration to the location of the development and its use.

- While there appears to have been a beer garden originally at this location no planning history can be found to verify this.
- As mentioned in connection with the previous application some form of much reduced covered external area may be acceptable. However, the applicants would have to provide much greater detail, including; a noise assessment and details of the acoustic qualities of the proposed materials; hours of operation of use; and detailed floor plans illustrating the layout and seating arrangements.
- No requirement for appropriate assessment or for environmental impact assessment screening.

3.2.2. **Other Technical Reports**

Drainage Division – no objection.

3.3. **Prescribed Bodies**

Uisce Eireann – no comments received.

3.4. **Third Party Observations**

Submissions received from the Observers to the appeal. Similar issues raised – see Section 7.3 below.

4.0 **Planning History**

PA Ref. WEB1108/25

This is the previous, 2025, refusal of permission referred to in the planning authority Planners report above. The reason for refusal was similar to that cited in the subject case.

PA Ref. 3961/19. ABP Ref. 306378

This is a 2019 permission for the redevelopment of the property for mixed residential and retail use. It has not been carried out.

PA Ref. 3255/18, ABP Ref. 302455 and PA Ref. 3906/17, ABP Ref. 300446

These were previous refusals of permission for redevelopment of the property.

PA Ref. E1219/24

This is an enforcement file in relation to the installation of a retractable awning and a change of use to guesthouse accommodation at the property.

5.0 Policy Context

5.1. Development Plan

Dublin City Development Plan 2022-2028

Chapter 15, Section 15.14.12 – Night Clubs/Licensed Premises/Casinos/Private members Clubs

Includes:

Dublin City Council will encourage entertainment/cultural/music uses which help create an exciting city for residents and tourists alike.

There is a need to strike an appropriate balance between the role of these entertainment uses in the economy of the city and the following:

- To maintain high-quality retail functions on the primary city centre streets and ensure a balanced mix of uses.*
- To protect the amenities of residents from an over-concentration of late-night venues.*
- Noise emanating from and at the boundaries of these establishments are issues which will need to be addressed in planning applications for such establishments. Noise insulation and reduction measures, especially relating to any mechanical ventilation or air-conditioning, will be required to be submitted with any such planning application.*

The development of ‘superpubs’ will be discouraged and the concentration of pubs will be restricted in certain areas of the city where there is a danger of overconcentration of these to the detriment of other uses. In cases where new uses, including uses such as casinos and private members clubs, or extensions to the existing use are proposed, the onus is on the applicant to demonstrate that such proposed development will not be detrimental to the residential, environmental quality or the established character and function of the area.

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:

- *The amenity of neighbouring residents and occupiers.*
- *Hours of operation.*

5.2. Natural Heritage Designations

None relevant.

6.0 Environmental Impact Assessment (EIA)

- 6.1. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. See Form 1 in Appendix below.

7.0 The Appeal

7.1. Grounds of Appeal

The main grounds of appeal can be summarised as follows:

- The only noise that may currently emanate from the premises is part of an established use and the effect of the subject structure can only be to attenuate sound and to improve the receiving conditions.
- The covering over the garden does not increase the size of the public house but only increases the comfort of an existing seating area.
- There appears to have been no enforcement action taken in relation to the existence of the a beer garden which is known to exist for at least 18 years.
- The hours of operation, as set out in the licensing laws, are generally from 9.00am to midnight.
- It is not practical to provide seating plans for every permutation of use and where flexibility is required.

The submission includes online reviews dating back to 2009 and which are stated to make specific reference to the long-established nature and extent of the beer garden.

The submission also includes an acoustic report which includes:

- Noise measurements in the garden/terrace area recorded between 26 March and 30 March 2026, a period stated to include an Irish international soccer game and late night musical activities within the venue. The canopy was closed during all tests.
- Measurements included in-venue positions and atop the boundary wall in direct line of sight of residences (at 27 metres away) and stated to assess the difference in level being generated in the venue with the canopy closed and the level likely to be present if no such canopy were present at all.
- Test 1, within the venue, covering the evening of 26 March, during the Irish international soccer game, recorded a highest 5 minute result (Laeq) of 99dB(A). [Otherwise, the graphic illustration, though difficult to interpret due to the values for time indicated on the horizontal axis, suggests sustained high noise levels during the soccer game and more general noise levels across a 92 hour period of measurements in the range 40dB(A) to 70dB(A)].
- Test 2, from atop the boundary wall, covering the same period, recorded a highest 5 minute result of 83dB(A). [Otherwise, the graphic illustration suggests sustained high noise levels during the soccer game and more general noise levels across the day, from 12md to mid-night, in the range 50dB(A) to 80dB(A)].
- The insertion loss, or reduction in value, due to the canopy being in place, is calculated as 16dB(A) [99dB(A) minus 83dB(A)].
- Test 3, within the venue, covering a 4 hour period on the evening of 27 March, during a music event, recorded an overall noise level of 72dB(A). [By reference to the graphic illustration this overall level appears to be the general noise level across the period of measurement with a noticeable fall-off after 2300 hours].
- Test 4, from atop the boundary wall, covering the same period, recorded an overall noise level of 65dB(A) [noting a localised peak due solely to a technical adjustment in the analyser equipment]. [Again, by reference to the graphic

illustration, this overall level appears to be the general noise level across the period of measurement with the same fall-off after 2300 hours].

- The insertion loss, or reduction in value, due to the canopy being in place, is calculated as 7dB(A).

A conclusion that both sets of scenarios indicate that the presence of the canopy represents a useful and beneficial sound breakout reduction measure.

7.2. Planning Authority Response

None received.

7.3. Observations

Three submissions have been lodged from:

Eamonn and Catherine Curley, 10 Marlborough Road.

Sheila and Paul Fahey, 4 Marlborough Road.

Frances Kavanagh, 2 Marlborough Road.

Issues raised include:

- The pub has been playing loud music in the beer garden at night until 1.00am which is detrimental to local residential amenity.
- The development has materially altered the character and use of the back garden.
- The back garden area is located approximately 10 metres from residential boundaries.
- The introduction of a commercial entertainment system providing amplified music, DJs and a large external screen represents a substantial intensification of use compared to the previous pub operation.
- The submitted noise assessment is not representative of the lived experience of residents. Noise disturbance is frequent and disruptive. No comparable noise issues previously existed. The assessment measures noise levels with the entertainment system already operational. So the claim that the awning reduces noise is not persuasive.

- The appeal does not address broader issues arising, including waste management, increased intensity of use, privacy and the cumulative impact on residential amenity.
- Commercial bins have been relocated from within the curtilage of the premises to the private laneway, positioned adjacent to residential boundaries, and generating further noise and intruding on the privacy of residents.
- There has never been a beer garden as it currently is now.

8.0 **Assessment**

- 8.1. The main issues in this appeal are those raised in the planning authority reason for refusal and I am satisfied that no other substantive issues arise.
- 8.2. McCloskeys is clearly a well-established licensed premises in the locality that likely provides a service to the immediate neighbourhood and to patrons from further afield. In such circumstances there is an obvious tension between safeguarding the amenities of local residents and ensuring that premises like McCloskeys continue to thrive. Development plan policies (Section 5.1 above) and the planning history of the property (Section 4.0 above) reflect this tension and illustrate the difficulty in arriving at an appropriately balanced approach in considering development proposals at such premises.
- 8.3. It is important, in the first instance, to consider the nature of the operation that the awning or canopy and associated timber panelling facilitates. As described at Section 1.0 above the entire rear garden area has been enclosed, polished concrete (or similar) flooring has been laid and multiple screens have been provided with an associated sound system. It is also clear from the applicants noise assessment that the terrace use includes late night music events, confirming the assertion of the observers in this regard. I would not describe the canopy as lightweight – it is a substantial steel-framed structure.
- 8.4. A beer garden is typically defined as *an outdoor area in which beer and food is served, typically shaded by trees* (en.wikipedia.org) or as *a garden attached to a pub, where people can sit and drink beer* (collinsdictionary.com) and I consider that these definitions would generally coincide with most people's understanding of the term. They also coincide closely with the pictures of the rear garden area of McCloskeys prior to the

installation of the canopy as provided in the applicants cover letter submitted with the application (Google Earth views refer).

- 8.5. It is clear to me, despite the applicants reliance on the previous use as a beer garden, that the canopy and associated timber panelling actually facilitate a very different operation or use of the garden area, one which is in the nature of an entertainment venue and which has far greater potential to generate disturbance for local residents. On the basis of the information provided in this application and appeal, the current use cannot, in my view, be defended as an established use on the basis of the previous use of the rear garden.
- 8.6. In this context I find the applicants noise assessment to be entirely unsatisfactory. It effectively attempts to indicate the noise dampening effect of the canopy, being the difference between the use of the terrace as it is now with the canopy closed versus no canopy at all, though noting that all tests were conducted with the canopy closed and using the top of the boundary wall as a proxy for no canopy or presumably the canopy being open. However, a proper comparison would be between the garden as it previously existed and the current situation, the latter including both with the canopy closed and with it open.
- 8.7. For information it will be noted that the applicants noise assessment doesn't cite any reference standard to establish if the recorded noise levels should be considered to be generally acceptable. This is likely because there appears to be no current specific guidance for assessing sound levels from premises such as outdoor areas of public houses, nightclubs or entertainment venues. The Environmental Protection Agency: Guidance Note for Noise (NG4), January 2016, developed for scheduled activities, typically industrial sites, indicates general limits of 55dB(A) for day-time (0700-1900), 50dB(A) for evenings (1900-2300) and 45dB(A) for night-time (after 2300) relative to noise sensitive locations. In addition penalties apply for tonal or impulsive noise at sensitive locations. These levels are significantly below those recorded in the noise assessment (see Section 7.1 above). Controlling noise emissions from scheduled activities will also generally be much more within the capacity of the operator than would be the case at an open entertainment venue.

- 8.8. My conclusion in this aligns with the main points made in the observer submissions and with which I generally agree. I do not consider it necessary to address the other issues raised in those submissions as they are outside the scope of the application.
- 8.9. In conclusion, therefore, I consider that the appeal should fail and that the reason for refusal cited by the planning authority should be substantively upheld.

9.0 AA Screening

- 9.1. Having considered the nature, small scale and location of the project within an established and serviced urban area, and taking account of the screening determination of the planning authority, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.
- 9.2. I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Appropriate Assessment, therefore, is not required.

10.0 Water Framework Directive

- 10.1. I have assessed the development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status) and to prevent deterioration.
- 10.2. Having considered the nature, small scale and location of the project in a serviced urban area, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies.

11.0 Recommendation

- 11.1. I recommend that permission be refused.

12.0 Reasons and Considerations

Having regard the planning history of the property and to the nature of the previous use of the garden area of the premises as illustrated in the documentation submitted with the application, the Commission is not satisfied that the applicant has adequately demonstrated that the development for which retention permission is sought, and which facilitates a different use, in the nature of an entertainment venue rather than a beer garden, would not be seriously injurious to the residential amenity of properties in the vicinity by reason of noise disturbance. The retention of the development would, therefore, be contrary to section 15.14.12 of the Dublin City Development Plan and 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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

B. Wyse
Planning Inspector

30 June 2026

Appendix 1: Form 1 EIA Pre-Screening

Case Reference	
Proposed Development Summary	Retractable awning and timber panelling
Development Address	McCloskeys Public House, 83-85 Morehampton Road, Donnybrook, Dublin D04 K589
IN ALL CASES CHECK BOX / OR LEAVE BLANK	
1. Does the proposed development come within the definition of a 'Project' for the purposes of EIA?	☒ Yes, it is a 'Project'. Proceed to Q.2.
	☐ No, No further action required.
(For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here
☒ No, it is not a Class specified in Part 1. Proceed to Q3	

3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
☒ No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	If a development is not a Class – Include this paragraph under EIA Screening (A separate heading) in the Inspectors Report. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994 Roads
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	
☐ Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	
4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes ☐	
No ☒	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: B. Wyse.

Date: 30 June 2026