



An
Bord
Pleanála

Inspector's Report

ABP-321139-24

Development

Retention of planter boxes and pergola with retractable roof and timber screening to external seating area. Provision of loading bays to service the existing public house which will include modification of the existing service yard boundary wall and relocation of the existing service yard gates.

Location

Brady's of Shankill, Dublin Road, Shankill, Dublin 18, D18 E1W0

Planning Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

D24A/0039

Applicant(s)

Knockfodda Enterprises Ltd.

Type of Application

Permission & Retention.

Planning Authority Decision

Split Decision

Type of Appeal

Third Party

Appellant(s)

Paula Morgan & Others.

Observer(s)

None.

Date of Site Inspection

5th February 2025.

Inspector

Jennifer McQuaid

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1.0 Site Location and Description

- 1.1. The subject site (0.4437ha) is located at Brady's of Shankill, Dublin Road, Dublin 18. The site comprises an established public house and restaurant which is located in the centre of Shankill Village.
- 1.2. The public house fronts onto the Dublin Road (main street), and there is a relatively large car parking area serving the pub located on its northern side. Vehicular access to the existing surface level car park is provided via the entrance on the Dublin Road.

2.0 Proposed Development

- 2.1. The development consists of retention for:

- Planter boxes
- Pergola with retractable roof and timber screening to external seating area

And permission for:

- Provision of loading bays to service the existing public house.
- All modification of the existing service yard boundary wall.
- Relocation of the existing service yard gates.

3.0 Planning Authority Decision

3.1. Decision

Split Decision

Refuse Permission for 2 no. loading bays, modifications to the service yard boundary wall and relocation of the service yard gates for the following reason:

1. The Planning Authority, on the basis of the evidence available before it at this time, is not satisfied that the proposed development is not predicted upon built elements with an unclear planning status. Furthermore, the scale and form of the expansion of the loading bay provision and the related modifications to the south of the public house, would result in an undesirable unregulated parking of both delivery/non-delivery vehicles at this location and an unacceptable

increase in vehicular protrusions onto the footpath, which would be hazardous to pedestrian and traffic safety and convenience, exacerbating the potential for vehicle/pedestrian conflict, and would be seriously injurious to the residential amenities of the area. It is considered that in permitting this component of the proposal would set an undesirable precedent for similar type of development and does not accord with the anticipated outcomes under section 5.8.6 Policy Objective T28: Road Safety of the Dun Laoghaire Rathdown County Development Plan 2022-2028 which would endanger public safety by way of a traffic hazard and would therefore be contrary to the proper planning and sustainable development of the area.

Permission granted for planter boxes in pergola with retractable roof and timber screening to external seating area on the southern side of the existing public house.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The proposed development and retention are in accordance with the zoning objective “NC” as a public house is permitted, and the proposal is ancillary to the public house.
- The reduction of the outdoor seating area from previous refusal D21A/0748, leaves a footpath of 2.2m for pedestrian and this is acceptable.
- Removed existing open air uncovered seating area from previous application and this has addressed the previous refusal reason.
- Recommend a condition to remove the open-air outdoor seating area, screening, planter boxes and cones. The covered outdoor seating area to be retained.
- Recommend a condition relating to noise levels & opening hours. Further information requested to confirm opening hours.
- Recognise the transitional zonal nature of the southern corner of the site, and the previous An Bord Pleanála refusal reason for proposed increase in the intensity of use of the loading bays and adverse effect on Stonebridge Close, increasing the potential for vehicle/pedestrian conflict, would be hazardous to

pedestrian and traffic safety and convenience, and would seriously injure the residential amenities of the area. Therefore, further information required regarding the proposed loading bay.

- Further information requested from Transportation regarding the potential of using the car park.
- The use of the car park entrance as a meeting point for Dublin Mountains Way hiking trail, is not considered a reason for relocating of the loading bays.
- Further information received and applicant outlined issues with relocating the loading bays to the north. Planning Report queries if the applicant has permission for the following:
 - Removal of the loading area within the existing car park to the north
 - Loading area replaced with 4 no. car parking spaces.
 - Blocking-up of the delivery alley running along the rear of the site from the car park to the north of the service yard to the south, with what appears to be a “function room”.
- Planning report wanted to seek clarification of information on planning status, but no scope to extend timelines. Therefore, refusal recommended, and the Planning Authority do not accept the principle of relocating the delivery area.
- The swept path manoeuvres for the rigid truck and 3.5t van are deemed acceptable but Transportation do not support the location of the loading bays as stated above.
- It is noted that delivery vehicles are allowed to park on Stonebridge Close adjacent to the subject site on the double yellow lines for a period not exceeding thirty minutes while goods are being unloaded, under Section 5(2)(e) S.I. No. 182/1997 – Road Traffic (Traffic and Parking) Regulations, 1997, making the provision of the loading bays unnecessary.
- Further noted the provision of loading bays would result in loss of 2 no. on-street parking spaces on Stonebridge Close.
- Operating hours confirmed as 10.30am until 9pm Monday to Saturday and from 12.30pm until 9pm on Sunday. A condition to be attached closing the

premises at 9pm, as this is sufficient to prevent undue noise or nuisance impacts to nearby residents.

- It is considered that a condition relating to SUDS measures for the loading bay is not relevant due to the refusal for this part of the development.
- Contributions applicable.

3.2.2. Other Technical Reports

- **Transportation: Request Further Information.** Submit revised drawing showing the swept path manoeuvres for a rigid truck and 3.5t van, reversing into the loading bay and exiting in a forward management, without encroaching onto private car parking spaces or private property. And submit a proposal fully investigating locating the loading bays within the carpark to the north of the existing public house including exploring the reconfiguration of internal areas of the western part of the public house to enable the conveyance of the barrels etc. within the confines of their own property, to remove the traffic/turning impacts of deliveries on Stonebridge Close.
- **Drainage:** no objection subject to conditions.

3.2.3. Conditions

- **Condition 2:** The applicant shall ensure that a minimum 2.0m wide pedestrian pathway is maintained along Stonebridge Close adjacent to the planter boxes and pergola for which Permission for Retention has been sought.

Reason: To maintain pedestrian safety to and from Stonebridge Close.

- **Condition 3(a):** There shall be no piped music, live music or any electronic noise sources (for example televisions) in the proposed area that would be likely to cause significant disturbance to local residents.

(b): Noise resulting from operations effecting nearby noise sensitive locations shall not exceed the background level by 10dB(A) or more or exceed the EPA's NG4 (Guidance Note for Noise: Licence Applications, Surveys and Assessments in Relation to Scheduled Activities) limits whichever is lesser (as measured from the façade of the nearest noise sensitive location).

- Daytime (07:00 to 19:00 hrs) – 55dB Laeq

- Evening (19:00 to 21:00 hrs) – 50dB Laeq
- Night-time (21:00 to 07:00 hrs) – 45dB Laeq

Reason: To protect surrounding areas residential amenity.

3.3. Prescribed Bodies

- Environmental Health Office: No objection subject to compliance with conditions.

3.4. Third Party Observations

Seven number submission were received, the main concerns were:

- Noise & Nuisance & Littering
- The area is congested due to parking and drop off situations.
- Pedestrian safety concerns
- Pathway compromised due to proposed truck manoeuvres and outdoor seating area makes it difficult for pedestrians and persons with buggies or older people to negotiate reversing the pathway.
- Footpaths are part of a private property's deeds of assignment & interferes with public rights of way. Part of the footpath is assigned to the residents of Stonebridge Close, and they do not permit the space being used as an outdoor seating area associated with the pub.
- This proposal does not address the reasons for refusal set out by An Bord Pleanála (ABP).
- The applicant is land grabbing.
- The development will impede emergency services vehicles access to Stonebridge Close
- Additional loading bays are unnecessary as there is already a loading bay located on the north side of the pub.
- An outdoor seating area on the southern side of the pub is not necessary.

- The submitted swept path analysis clearly shows how vehicle manoeuvres will encroach onto the parking area of Stonebridge Close.
- Traffic congestion impacts.
- Plans and particulars submitted are not reflective of the actual environment.
- The addition of the loading bay will exacerbate existing nuisance issues.
- Planters encroach on the pedestrian footpath.
- The pergola is a side extension onto the public realm.
- The trucks will traverse the footpath leading to unsafe environment for pedestrians.
- Cobblestone areas within Stonebridge Close have been damaged due to large vehicular use.
- Will increase traffic volumes into Stonebridge Close.

4.0 Planning History

D23A/0422: Retention Permission granted for internal works, extension, external seating area and elevation alterations.

ABP-313665-22 (PA ref: D21A/0748): Permission refused for pergola with a retractable roof and timber screening, and seating area. Retention refused for windbreaker screening to open-air seating and planter boxes.

1. It is considered that the development proposed for retention, by reason of its scale and positioning along the public footpath, adjacent to the delivery entrance/loading bay for the premises resulting in minimal space for the safe manoeuvrability of delivery vehicles, would increase the potential for vehicle/pedestrian conflict, would be hazardous to pedestrian and traffic safety and convenience, would result in overdevelopment of the site and would seriously injure the residential amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to grant permission, the Board considered that the development proposed for retention was excessive, would not be acceptable in terms of pedestrian and traffic safety and convenience and would seriously injure the residential amenity of the area. In particular, the Board considered that in the context of the wider site operations, the development proposed for retention would militate against the effective and appropriate operation of the overall development.

D21A/0185: Retention Permission granted for timber enclosed seating area. Conditioned for 12 months and not utilised after 10pm.

D20A/0114: Permission granted for partial change of use.

D18A/0859: Permission granted for first floor extension.

D07A/1706: Permission granted for demolition of existing staff room and storage shed and ancillary works.

D04A/0366: Permission granted minor alterations for change of use first floor to beauty clinic.

D03A/1030: Permission granted for minor alterations for change of use first floor to physiotherapists.

D02A/0359: Permission granted for minor alterations to provide re-positioning of 2 storey retail/office development and minor elevational changes on site.

D02A/0527: Permission granted to re-positioning of 2 storey retail/office development and minor elevational changes on site.

D97A/0166: Permission granted to construct 2 storey retail and office development adjacent to existing public house.

Planning Enforcement:

ENF 14321: unauthorised development relates to the covering over of an area adjacent to the western elevation of the premises with a canopy/marquee type structure. File is closed.

5.0 Policy Context

5.1. Development Plan

Dun Laoghaire-Rathdown County Development Plan 2022-2028.

The site is zoned “NC”, the objective is to protect, provide for and/or improve mixed-use neighbourhood centre facilities.

The rear/west, southwest corner adjacent to the site is zoned as “A”, the objective is to provide residential development and improve residential amenity while protecting the existing residential amenities.

Chapter 5, section 5.8 relates to Road and Street Network

Policy objective T27: Traffic Noise. It is a Policy Objective to ensure that traffic noise levels are considered as part of the new developments along major roads/rail lines in accordance with best practice guidelines.

Policy objective T28: Road Safety. It is a policy objective to implement a County Road Safety Plan in line with the emerging Government Road Safety Strategy 2021 to 2030 in conjunction with relevant stakeholders and agencies.

Chapter 7 relates to Towns, Village and Retail Development

Chapter 12 relates to Development Management

Section 12.6 relates to Towns and Villages and Retail Development

Section 12.6.1 relates to Assessment of Development Proposals in Towns, District and Neighbourhood Centres.

Section 12.6.8.6 Street Furniture Strategy

5.2. Natural Heritage Designations

5.3. The subject site is not located within a designated area. The most relevant are:

- South Dublin Bay pNHA (site code: 000210) & South Dublin Bay and River Tolka Estuary SPA (site code: 004024) are located c.2.7km east.
- Fitzsimon’s Wood pNHA (site code: 001753) is located c.3.3km west.

- Dalkey Coastal Zone and Killiney Hill pNHA (site code: 001206) is located c. 4km southeast.
- Rockabill to Dalkey Island SAC (site code: 003000) is located c. 6km east.
- Knocksink Wood SAC (site code: 000725) is located c. 7km south.
- Wicklow Mountains SAC (site code: 002122) & SPA (site code: 004040) is located c. 7.5km southwest.

5.4. EIA Screening

- 5.4.1. The proposal relates to the retention of an outdoor seating area and provision of 2 no. loading bays within the development boundary of Dun Laoghaire-Rathdown & Shankill Village. The site is located on zoned lands and not within a designated area. Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. Please refer to Form 1 and Form 2 as per Appendix 1 below.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal have been submitted from local residents. The concerns raised are:

- Applicant ignores the planning process and applies for retention after the works has been completed.
- Right of way over pathway not just 2m. This is a fixed structure over the pathway which applicant has no legal right of way.
- Traffic hazard and danger for pedestrians. No control is maintained over patrons using footpath by the applicant. Patrons' park on the double yellow lines at the entrance and on both sides which affects entry by emergency vehicles and resident trying to enter their homes.

- The tables, seating and screening block exits from the kitchen, lounge and stairs to the basement, fire escape risks for patrons and staff.
- The grant of permission refers to “two” external seating areas. This is not indicated on the drawing.
- The conditions do not include a time for outdoor service to cease as was previously stipulated, i.e. cease serve by 9.30 and 9.00pm.
- Noise and disturbance caused by people congregating at pergola and side door remains and causes disturbance for children and adults trying to sleep.
- Smell omitted when Environmental Services are clearing drains. And drains run into the estate which are affected by the pub and there a constant foul smell rising up through these.
- Skip on site in October 2024 and construction work carried out, no details of what work was carried out.
- Signs erected in March 2024 denying heavy goods vehicles use of the carpark, this has increased traffic entering the Close.
- Applicant tried to imply entrance to the carpark serves as a starting point for Dublin Mountain Way walking trail, this group only meeting twice a week for 5-10min. No concerns for residence of the Close who use the path at all times day and night on the southside of the pub.
- No space for large trucks and vans to reverse at times and with car parking. Cars have been damaged by cars/vans/trucks turning and reversing.
- The “paid for parking” and pergola set up by the applicant eliminated the very few short-term village car parking availabilities. Parking in the village has been exacerbated.
- The appellant thinks the car park was granted permission to be available for patrons of the pub and the community for quick use while dropping into the locality.
- The planters are often moved in and out of position and cones are left on the double yellow lines for his trucks to park when delivering.

6.2. Applicant Response

The applicant has made the following comments:

- A 2m pathway is provided for pedestrian movement and does not obstruct residents' access rights.
- Development Management guidelines (section 5.13) indicate planning decisions are not intended to resolve land ownership of right-of-way issues.
- The appellants have not submitted any evidence of their alleged right of way over the entirety of the footpath.
- A map submitted which is attached to an Indenture of Conveyance dated 15th December 2006, the right of way indicated over the applicant's property has a width of approximately 1.4 metres.
- The pergola footprint has been reduced, creating a 2m wide pathway.
- Double yellow lines were implemented to prevent cars parking in unauthorised areas, unfortunately cars continue to park, and it is outside the applicant's control.
- Traffic cones are put in place to prevent cars parking at Stonebridge Close on the double yellow lines.
- Some deliveries need to be delivered to the southern side of the premises with access to the service yard and goods lift etc for operational reasons. The applicant has a dedicated staff member to oversee deliveries and ensure no obstruction or nuisance to the residents.
- No condition attached to planning reference D96A/0347 for the availability of car parking for community use as a short-term parking facility.
- Vehicles of varying types have been parking at the entrance to Stonebridge Close since the premises was operational and google Streetview images provided from 2009 to 2019. Pedestrian access to Stonebridge was significantly worse than it is now.

- The outdoor terrace has had the effect of removing the unregulated parking of vehicles at this location and has improved pedestrian and traffic safety by reducing volumes of vehicles.
- Noise mitigation measures implemented, hours of operation are 10.30am to 9pm Monday to Saturday and 12.30pm to 9pm on Sundays. No amplified or piped music is permitted, cleaning is carried out every hour. All furniture is removed from the area by 9pm each day to facilitate thorough cleaning and to ensure no loitering from customers.
- The pergola does not alter existing hard paving or increase surface water runoff. The AA and EIA carried out by Dun Laoghaire Rathdown County Council confirmed no environmental risks.
- The applicant has submitted quarterly certificates of treatment in relation to the removal of waste grease. No changes proposed to drainage services and the proposal does not impact on any existing drainage services.
- The inspector for ABP-313665-22, recommended granting permission for the pergola and seating area. The board refused permission as it had concerns about loading bay placement, the applicant has removed all proposed loading facilities from Stonebridge Close, directly addressing the Board's primary reason for refusal.
- Transportation Section highlighted that delivery vehicles can legally park on the double yellow lines on Stonebridge Close for up to 30 minutes while unloading, under section 5(2)(e) of SI No. 182/1997, making designated loading bays unnecessary.
- The retention of the pergola and seating area aligns with the key zoning and policy objectives for neighbourhood centres.
- The neighbourhood centre (NC) zoning specifically permits development like public houses and outdoor seating, Policy objective RET7 supports these centres as essential local service hubs, encouraging facilities that strengthen the social, retail and recreational offerings within walking distance of residents.

- The proposal contributes to Policy Objective T28: Road Safety. This policy prioritizes the safety and convenience of pedestrians in urban areas, and the pergola design improvements have removed previous unregulated parking along this path, which was a known safety concern.
- The outdoor structure supports Policy Objective MFC2: accessible and inclusive Multifunctional Centres, by offering a community amenity that is both welcoming and compliant with pedestrian accessibility standards.
- The pergola aligns with Policy Objective MFC3: Placemaking in Our Towns and Village which highlights the importance of designing spaces that enhance local identity and encourage social interaction.
- The CDP, section 13.1.2 Transitional Zonal Areas, recognises the unique challenges of transitional zonal areas where commercial and residential areas meet. The pergola's limited scale and carefully managed operational hours have been designed to respect the nearby residential area of Stonebridge Close. The prohibition of amplified sound ensures compliance with Policy Objective EI14: Air and Noise Pollution, which sets out specific guidelines for noise control in areas close to residential properties.

6.3. Planning Authority Response

The Planning Authority have stated:

- The grounds of appeal do not raise any new matter.

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 local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Traffic Issues
- Residential Amenity – Noise
- Traffic Issues
- Other Issues
- Appropriate Assessment

7.2. Traffic Safety

7.3. The proposal consists of retention permission for planter boxes and pergola, external seating area to the side of the existing public house and is located along the existing public footpath. Permission is sought for the provision of 2 no. loading bays to the south of the public house which will exit and enter from Stonebridge Close cul de sac.

7.4. The grounds of appeal have raised concerns in relation to right of way over the footpath and the width of the clearance along the footpath for pedestrians. The appellant claims the pergola is fixed and is a traffic hazard and danger for pedestrians. In relation to the loading bay, there is no space for large trucks and vans to reverse at times, as cars park along the cul de sac and on the double yellow lines.

7.5. The applicant has stated a 2metre pathway is provided for pedestrian movement and does not obstruct residents' access rights. Double yellow lines were implemented to prevent cars parking in unauthorised areas and traffic cones are also used. The deliveries are required to use the southern side of the premises with access to the service yard and goods lift etc for operational reasons. The applicant has a dedicated staff member to oversee deliveries and ensure no obstruction or nuisance to the residents.

- 7.6. During my site visit, I observed the outdoor seating area and planter boxes extending along the southern boundary and outside of the area for retention indicated on the site layout plan. In addition, the footpath width is below the required 2 metres and stated 2.249 metres indicated on the submitted site layout plan. In any event, I note the structures are not permanent and can be removed or relocated. It is my opinion, that the proposed retention area can be accommodated at this location with minor changes and the clearance of a minimum 2-metre-wide footpath to allow pedestrian movement. Therefore, I consider in the event of a grant of permission, the applicant shall be conditioned to provide a minimum 2 metre wide footpath along the southern boundary of the site and the planter boxes and outdoor seating outside of the indicated retention area shall be removed within 1 month of a grant of permission.
- 7.7. In relation to the proposed loading bays, I note the applicant has received permission from the adjacent landowner to extend the subject site in order to allow for 2 number loading bays, one for a rigid truck and one for a van. The applicant has submitted a swept analysis which indicated that both the rigid truck and the 3.5t van can reverse into the loading bay and exits in a forward movement without encroaching onto any private/allocated car parking spaces or private property. However, the loading bays are located along a pedestrian footpath and within Stonebridge Close housing estate. I have concern's the vehicles will block the pedestrian footpath while loading or unloading.
- 7.8. From the drawings submitted, the applicant owns the car park area to the north of the public house, the applicant has submitted reasons as to why the car park cannot be used as a loading bay, these include; the service yard, barrel drop and goods service lift are located on the southern side of the public house, a cost prohibitive change of internal layout would be required in order to bring the goods through the public house to the service yard, multiple handling manoeuvres using pallets would be required to bring the goods around the outside of the public house and all the public footpath to the service yard and the Dublin Mountains Way hiking trail right of way is in the car park, therefore by locating the loading bays in the car park would increase the potential for vehicle/pedestrian conflict.
- 7.9. Under planning reference D23A/0422, a loading area is located to the north in the car park, and a delivery route is located to the rear of the premises to the service yard. During my site visit, I noted the loading area in the car park and entrance area,

no longer exist and the public house extends to the rear boundary of the site. It is unclear if permission was granted for these developments.

- 7.10. I note the applicant's reasons for relocating the loading bay area to the south of the public house, however, I have concerns regarding the rigid trucks and vans driving into Stonebridge Close and reversing into a loading bay across a pedestrian footpath within a residential housing estate. The applicant has indicated he owns the car park to the north, and during my site visit, I note this area is more suitable for a loading bay due to the space provided and applicant control over the land. I note the applicant has concerns regarding the right of way for Dublin Mountains Way hikers, however, I consider, this can be dealt with by providing notice of delivery times for walkers and providing a safe walking route around any deliveries present at that time.
- 7.11. Having regard to the location of the proposed retention area for the outdoor seating area and the relocating of the outdoor seating area in order to provide a 2-metre-wide footpath, I consider the outdoor seating area is acceptable and will not conflict with pedestrian movements in the area.
- 7.12. Having regard to the proposed loading bay areas, I consider the proposed location would result in undesirable unregulated parking of both delivery/non-delivery vehicles at this location, in addition, the loading bay provision would result in vehicular protrusions on the footpath, and therefore I consider it would be hazardous to pedestrian and traffic safety and exacerbate the potential for vehicle/pedestrian conflict and serious injure the residential amenity of the area. Therefore, I recommend a refusal for this reason for the proposed loading bays.
- 7.13. **Residential Amenity**
- 7.14. The site is zoned as "NC", the objective is to protect, provide for and/or improve mixed-use neighbourhood centre facilities. The public house is located along Dublin Road in Shankill village. Stonebridge Close housing estate is located to the south and west of the subject site.
- 7.15. The grounds of appeal query why the Planning Authority did not impose a condition regarding opening hours. The hours should be stated as 9.30am and 9.00pm. The appellants have concerns regarding noise and disturbance caused by people congregating at pergola.

- 7.16. The applicant has stated in accordance with the CDP, section 13.1.2 Transitional Zonal Areas, the pergola's limited scale and carefully managed operational hours including noise mitigation measures have been designed to respect the nearby residential area of Stonebridge Close.
- 7.17. I have reviewed planning reference ABP-313665-22, whereby the applicant sought permission for an outdoor seating area of 113sqm. The Board considered the proposal for retention was excessive and would not be acceptable in terms of pedestrian and traffic safety and convenience and would seriously injure the residential amenity of the area.
- 7.18. I note in this current application the proposed retention area for covered outdoor seating has been significantly reduced to c. 41.36sqm. During my site visit I noted the additional outdoor seating area and planters still remain along the southern boundary (adjacent to the steel piers which mark the entrance to Stonebridge Close). In the event of a grant of permission, the applicant shall be conditioned to remove this area within 1 month of grant of permission.
- 7.19. I note the nearest dwelling is located c.21 metres to the outdoor seating area. I note the proposed opening and closing hours as 10.30am to 9pm Monday to Saturday and 12.30pm to 9pm on Sundays. In addition, no concerns were raised by Environment Section of DLRCC, however, they have requested a noise condition to be attached. Therefore, it is my opinion that given the separation distance to the nearest dwelling, the opening and closing hours and the inclusion of a noise condition, the residential amenity of the area will not be negatively impacted.
- 7.20. Having regard to the location of the nearest dwelling, the opening and closing hours of the public house, the proposed noise condition, I do not consider the retention of the c. 41sqm of outdoor seating area will adversely impact the residential amenity of the area. I consider a number of conditions shall be attached to a grant of permission including noise limits, restriction on opening and closing hours. In addition, the applicant shall be conditioned to remove the additional outdoor seating area along the southern boundary outside of the permitted retention area of c.41sqm.
- 7.21. **Other issues**
- 7.22. **Fire Escape**

7.23. I note the matters raised in relation to fire escape. Fire Regulations are the subject of a separate legal code. The issue of compliance with Building Regulations will be evaluated under a separate legal code and thus need not concern the Board for the purposes of this appeal.

7.24. Typographical Error

7.25. The appellant refers to the grant of permission issued by the Planning Authority, and I note the document refers to “two” external seating areas. I consider this is a typographical error and should state “to” rather than “two”. In any event, a grant of permission from An Bord Pleanála should clarify this issue.

7.26. Right of Way – Ownership

7.27. The appellants have stated they have a right of way over the footpath adjacent to the public house, however, no evidence has been submitted. Section 5.13 of the Development Management guidelines indicate planning decisions are not intended to resolve land ownership of right-of-way issues. The applicant has provided a minimum footpath width of 2.25m along the entire southern side of the site. The structure for retention is not permanent and could easily be removed, should it transpire that the applicant does not have sufficient legal interest to maintain the structures on the site. Section 34(13) of the Planning and Development Act, 2000 (as amended) states that “a person shall not be entitled solely by reason of a permission under this section to carry out any development”.

7.28. Drainage

7.29. The appellant has stated that there is an issue with drainage in the area and smells from the drains. The applicant has submitted evidence of quarterly certificates of Treatment. I noted Drainage section of DLR County Council have not raised an issue and recommended a condition to be attached in the event of grant of permission.

8.0 AA Screening

8.1. Having regard to the retention development of outdoor seating area and provision of loading bays with existing connection to public sewer and public water and discharge of surface water to the existing public storm water network and within the development boundary for Shankill Village. The nearest European site is South

Dublin Bay pNHA (site code: 000210) & South Dublin Bay and River Tolka Estuary SPA (site code: 004024) are located c.2.7km east, I do not consider there to be any likely impact, given that all surface water drainage is connected to public drains. It is considered that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant impact individually or in combination with other plans or projects on a European site.

9.0 Recommendation

- 9.1. I recommend a split decision as follows:
- 9.2. I recommend that retention permission should be granted for the planter boxes and pergola with retractable roof and timber screening to external seating area of c. 41sqm subject to conditions as set out below:

10.0 Reasons and Considerations

- 10.1. Having regard to the grounds of appeal, the existing public house use on site, the separation distance to adjacent properties and the provision of the Dun Laoghaire Rathdown Development Plan 2022-2028, it is considered that the proposed development, subject to compliance with the conditions set out below, would not negative impact upon the residential amenity or traffic safety of pedestrian along the footpath and the proposal is consistent with the proper planning and sustainable development for the area.

11.0 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 19th day of January 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. The applicant shall ensure that a minimum of 2.20 wide pedestrian pathway is maintained along Stonebridge Close adjacent to the planter boxes and pergola for which permission retention is sought.

Reason: To maintain pedestrian safety to and from Stonebridge Close.

3. Within 1 month of the grant of retention permission, the applicant shall remove the additional planter boxes and seating area along the southern boundary of the site which are indicated as outside of the proposed outdoor retention area. Revised drawings and evidence showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interests of residential amenity and pedestrian safety to and from Stonebridge Close.

4. (a) During the operational phase of the retention development the noise level shall not exceed (a) 55 dB(A) rated sound level between the hours of 0700 to 2100, and (b) 45 dB(A) 15min and 60 dB LAfmax, 15min at all other times , (corrected for a tonal or impulsive component) as measured at the nearest noise sensitive location. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) There shall be no piped music, live music or any electronic noise sources (for examples televisions) in the proposed retention area that would be likely to cause significant disturbances to local residents.

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

5. The operating hours for the outdoor seating area shall only open between the hours 1030 to 2100 Monday to Saturday and 1230 to 2100 on Sundays. No activity shall take place outside these hours.

Reason: In order to protect the residential amenity of property in the vicinity of the site.

6. 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.

12.0 Recommendation

- 12.1. I recommend that planning permission should be refused for 2 no. loading bays, modification of the existing service yard boundary wall and relocation of the existing service yard gates for the reasons and considerations set out below:

13.0 Reason and Considerations

1. It is considered that the proposed development of 2 no. loading bays and, in particular the scale and location of the loading bays along a residential cul-de-sac, would be seriously deficient and would be inadequate to cater for the parking for both delivery/non-delivery vehicles at this location and an unacceptable increase in vehicular protrusion onto the public footpath, thereby leading to conditions which would be prejudicial to public safety by reason of traffic hazard on the public roads in the vicinity and which would tend to create serious traffic congestion. It is considered that the proposal would contravene policy objective T28: Road Safety of the Dun Laoghaire Rathdown County Development Plan 2022-2028 which would endanger public safety by way of a traffic hazard and 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.

Jennifer McQuaid
Planning Inspector

10th February 2025

Form 1

EIA Pre-Screening

An Bord Pleanála		ABP-321139-24	
Case Reference			
Proposed Development Summary		Retention of planter boxes and pergola with retractable roof and timber screening to external seating area. Provision of loading bays to service the existing public house which will include modification of the existing service yard boundary wall and relocation of the existing service yard gates.	
Development Address		Brady's of Shankill, Dublin Road, Shankill, Dublin 18, D18 E1W0.	
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	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	Tick/or leave blank	Class 10(b)(iv) Infrastructure projects, Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere	Proceed to Q3.
No			

3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No	X		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	Class 10(b)(iv) Infrastructure projects state Urban development which would involve an area greater than 2 hectares. The subject site has an area of 0.4337ha and is located within zoned lands within the development boundary of Dun Laoghaire Rathdown County Council.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	X	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		

Inspector: _____ Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP- 321139-24
Proposed Development Summary	Retention of planter boxes and pergola with retractable roof and timber screening to external seating area. Provision of loading bays to service the existing public house which will include modification of the existing service yard boundary wall and relocation of the existing service yard gates.
Development Address	Brady's of Shankill, Dublin Road, Shankill, Dublin 18, D18 E1W0.
The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations. This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	- The outdoor terrace area is c.41m² on a site area of 0.4337ha. - The site is located on zoned lands within the development boundary of Dun Laoghaire Rathdown. - The public house has been in existence for a number of years, the surrounding area is predominately residential & retail. - The site is currently connected to public water, sewer and public drains. - The development has a modest footprint, comes forward as a standalone

	project, does not require demolition works, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	• The site is not located within a designated area. The nearest designated areas are: - South Dublin Bay pNHA (site code: 000210) & South Dublin Bay and River Tolka Estuary SPA (site code: 004024) are located c.2.7km east. - Fitzsimon's Wood pNHA (site code: 001753) is located c.3.3km west. - Dalkey Coastal Zone and Killiney Hill pNHA (site code: 001206) is located c. 4km southeast. - Rockabill to Dalkey Island SAC (site code:

	003000) is located c. 6km east. - Knocksink Wood SAC (site code: 000725) is located c. 7km south. - Wicklow Mountains SAC (site code: 002122) & SPA (site code: 004040) is located c.7.5km southwest. • My Appropriate Assessment Screening undertaken concludes that the retention development and proposed development would not likely have a significant effect on any European Site. • The site is not located within a Flood Zone. • The site is not located within an ACA or adjacent a Protected Structure.		
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the modest nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is not potential for significant effects on the environmental factors listed in section 171A of the Act.		
Conclusion			
Likelihood of Significant Effects	<table><tr><td>Conclusion in respect of EIA</td><td>Yes or No</td></tr></table>	Conclusion in respect of EIA	Yes or No
Conclusion in respect of EIA	Yes or No		

There is no real likelihood of significant effects on the environment.	EIA is not required.	No
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Inspector: _____

Date: _____

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)