

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2014

Donegal County

Planning Register Reference Number: 14/51344

An Bord Pleanála Reference Number: PL 05E.244432

APPEAL by Robert and Leona Robinson of Main Street, Dunfanaghy, County Donegal against the decision made on the 16th day of January, 2015 by Donegal County Council to grant subject to conditions a permission to Cape Verde Sol Ireland Limited care of MH Associates of Convent Road, Letterkenny, County Donegal for development comprising (1) two tent canopies containing mobile pizza oven and a stainless steel cooker, (2) steel storage container for storage of garden tools, (3) high level timber screen and associated timber support structure and (4) change of use of former storage shed to a dining area associated with the existing business at Patsy Dan's Bar, Dunfanaghy, County Donegal in the townland of Dunfanaghy in accordance with the plans and particulars lodged with the said Council.

DECISION

GRANT retention permission for (i) two tent canopies containing a mobile pizza oven and cooker, (ii) steel storage container for garden tools and (iii) change of use of shed to dining area in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below. **REFUSE** retention permission for timber screen and timber support structure based on the reasons and considerations marked (2) under.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS (1)

Having regard to the nature, scale and design of the proposed development to be retained and to the planning history of the area, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the residential amenities of property in the vicinity or the visual amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The existing roof of the shed to be used as a dining area shall be replaced with solid, sound-proofed material to the written satisfaction of the planning authority within three months of the date of this order.

Reason: In the interest of residential amenity.

3. The pizza and dining area hereby approved shall operate as an ancillary use to the existing licensed premises unless authorised by a prior grant of planning permission.

Reason: In the interest of orderly development.

4. (a) There shall be no amplified sound used externally at the premises at any time.

(b) Service of food on the premises shall cease at 10.00 pm Monday to Sunday inclusive.

Reason: In the interest of residential amenity.

5. (a) All seating and standing areas associated with the hereby permitted ancillary development shall be proximate to the canopies and the 'dining area' hereby permitted and shall not extend north of the rear gated entrance and shall be clearly separated by a timber 'divide'.

(b) Revised plans and elevations shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development, showing same 'divide' and providing for a 1.8 metre timber fence running from the north-most edge of the rear gated entrance to a point two metres or less from the north elevation of the structure indicated as 'generator store' on the submitted site layout (drawing number 4814/001).

Reason: In the interest of orderly development and residential amenity.

6. The steel garden shed hereby permitted shall be used for housing garden equipment and shall not be used for any commercial purposes, including the mounting of signage, or in conjunction with the established commercial business or the ancillary use hereby permitted.

Reason: In the interest of orderly and sustainable development.

7. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the building or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

8. The development shall be operated and managed in accordance with an Environmental Management System (EMS), which shall be submitted by the developer to, and agreed in writing with, the planning authority prior to commencement of development. This shall include the following:
 - (a) Proposals for the on-going monitoring of sound emissions at dwellings in the vicinity.
 - (b) Proposals in plan and elevation form in addition to technical specifications for rerouting of ventilation and ducting pipework associated with the pizza area (Heat Producing Appliances) to the eastern most containing wall of the site, whereby fumes and smoke will have an outlet point via flue over and above this structure (600 millimetres to 1 metre to be agreed with the planning authority) and in full compliance with Building Regulations 2014.

Reason: In the interest of environmental and residential amenity.

9. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

REASONS AND CONSIDERATIONS (2)

Having regard to the pattern of development in the area, the Board considered that the development proposed to be retained would impact negatively on the visual amenities of the area and on property in the vicinity and 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 retention permission for the timber screen, the Board considered that it imposed negatively on the visual amenities of the area and on the residential amenities of neighbouring property.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2015.