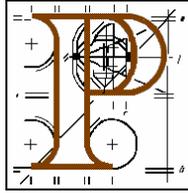


## AN BORD PLEANALA



### Inspector's Report

**PL 24 233867**

**DEVELOPMENT:**

Modification and Extensions comprising an extension of Retail area into former bakery at ground floor to include creation of a new ope in wall and material change of use to retail use. Material change of use of first and second floor apartments to office areas and removal and replacement of exiting roof structure over former bakery and all associated site development works.

**LOCATION:**

21 and 22 Rose Inn Street, Kilkenny city.  
(Protected Structure)

**PLANNING APPLICATION**

Planning Authority: Kilkenny City Council.  
P. A. Reg. Ref.: 09/005  
Applicant: Vincent and Catriona Quan  
Decision: Grant Permission

**THIRD PARTY APPEAL**

Appellant Eugene Norton  
Inspector Jane Dennehy  
Date of Inspection: 25<sup>th</sup> August, 2009.

This file contains a third party appeal against the decision of Kilkenny City Council to grant permission for extensions alterations and change of use at the former bakery located at 21 and 22 Rose Inn Street, Kilkenny city, Co.

I have inspected the site location, (excluding building interiors), and have read the documentation on the appeal file.

## **SITE LOCATION AND DESCRIPTION**

The site which has a stated area of 186 square metres consists of mid terrace building on two plot widths on the north side of Rose Inn Street. It has a vacant retail unit at ground floor level and apartments at the upper levels and, at the rear is the former bakery structure over with there is a corrugated iron roof. The buildings within the vicinity are in a number of mixed uses primarily with retail at ground floor level and the plots and floor plans are relatively small due to the location within the older mediaeval part of the city. St Mary's Lane to the north east links Rose Inn Street to High Street and Shee Almshouse are in the immediate vicinity.

## **PLANNING HISTORY.**

**P. A. Reg. Ref. 08/069:** Permission was refused for modifications and extensions that included extension into the former bakery at first and ground floor levels (with change of use to retail and change of uses at second and third floor levels to office areas along with various modifications and renovations to internal layouts and replacement of floor structures and partitions along with renewal and replacement of the roof structures with a flat roof extension. The reason for refusal was on grounds of inappropriate removal of eighteenth and nineteenth century staircases and inappropriate insertions resulting on loss of internal layout and floor plan thus materially affecting the character of protected structures.

## **DEVELOPMENT PLAN.**

The operative development plan is The Kilkenny City and Environs Development Plan, 2008-2014 according to which the site location is within an area subject to the zoning objective "General Business".

The buildings are included on the record of protected structures and are located within the area of the designated Architectural Conservation Area and the Zone of Archaeological potential (for the city)

## **THE PLANNING APPLICATION.**

The original application lodged with the planning authority indicates proposals for conversion and adaptation of the first, second and third floors from residential use to office use with ancillary accommodation involving some alteration to opes and walls, and at ground floor level, retail use with a new ope in the rear elevation wall of the building providing for interconnection with the former bakery at the rear, the roof of which is also to be replaced.

The *Conservation Officer* in her report indicated recommendations for additional information to be requested in respect of several aspects of the proposal along with submission of a method statement

The report of the *Department of the Environment Heritage and Local Government (National Monuments)* contains a recommendation for inclusion of an archaeological monitoring condition in the event that permission is granted.

The report of the *Department of the Environment Heritage and Local Government (Architectural Heritage)* contains a reference to the report on the previous application under P. A. Reg. Ref. 08/69 and welcomes the proposals to retain internal staircases. In the report it is suggested that elements of the building may date to an earlier period than the eighteenth century and that it considers that the submitted application details are inadequate for assessment purposes. In this regard proximity to mediaeval fabric at St Mary's Lane and elsewhere in the vicinity is noted suggestive of high potential for mediaeval fabric to be revealed in any works. It is recommended that, by way of a request for additional information, consisting of:

a comprehensive architectural heritage assessment report be prepared and submitted to enable a comprehensive assessment of impact be carried out especially as creation of openings is included in the proposal and reference is made to statutory guidance "Architectural Heritage Protection: Guidelines for Planning Authorities" in this regard (section 6.8.13).

Full elaboration on the proposed works to the exterior of the structure referred to as "general maintenance and redecoration" in the application and,

A specification and method statement on the treatment of surviving fabric that would be revealed and the management procedures for works in the vicinity of surviving fabric.

A request for additional information was issued by the planning authority on 9th March, 2009 in which the details sought in the reports of the Department and the internal Conservation Officer were requested from the applicant, to include enhancements for fire safety, upgrading of floor loading in accordance with conservation principles, thermal upgrading, method statements for repairs and for assurance as to structural stability during and after works were requested.

In the further information submission received on 16<sup>th</sup> April, 2009, there is a comprehensive written method statement for the proposed works, that according to the applicants' architects (Gittens) has been prepared following consultation with the conservation officer for the planning authority in which details of methodology for floor strengthening and upgrading and repair works to joinery along with electrical servicing and thermal upgrading are provided along with details of methodology for repair of historic features. It is indicated on drawings and in writing that the upgrading of load capacity at first floor level is to be achieved by installation of fitch beams involving addition of steel beams to the existing timber beams along with installation of new floor joints adjacent to the existing. In addition the proposals provide for replacement of defective steel and temporary propping up works providing for the opening and stabilisation works at the rear wall. There is no supplementary report from the Department of the Environment, Heritage and Local Government on file.

### **THE APPEAL.**

A third party appeal was received from Ryan Design on behalf of Eugene Norton of Woodsgift, Kilkenny on 4<sup>th</sup> June, 2009. The objections of the appellant are that the proposed development is substandard in that:

- the submitted details are inadequate in respect of with regard to deliveries facilities, no loading or unloading facilities being provided (as required under section 10.12 of the development plan),
- details of waste production and waste management have not been provided and,
- the development proposal is not compliant with fire safety requirements of the Building Regulations. The escape from ground floor is at distance of twenty one metres, well in excess of the twelve metres specified in technical guidance. Stairways are separated from the upper levels by protected lobbies. The escape stairways do not accord with standards for access for disabled persons in several respects.

In the appeal it is also stated that the upper floor level apartment layout is unclear and that the proposed accommodation is substandard and is therefore not in accordance with technical guidance and standards.

### **OBSERVATIONS OF THE PLANNING AUTHORITY ON THE APPEAL.**

In a submission received on 18<sup>th</sup> June, 2009 it is stated that it is not possible for central city area businesses to provide for deliveries and loading space but that in the

case of Rose Inn Street an existing public carpark can be used. Retail use of the ground floor according to the submission contributes to viability and vitality. It is also stated that the application did not include proposals for apartment development at third floor level and that Building Regulation matters are not planning considerations.

### **OBSERVATIONS ON THE APPEAL BY THE APPLICANT.**

I refer to the submission received from Liam McGree on behalf of the applicant on 6<sup>th</sup> July, 2009.

The following points are made in support of the rejection of the appeal. On site parking and loading areas cannot be provided there being one hundred percent coverage. There are loading facilities on Rose Inn Street and public parking can be obtained at Ormond Street multi-storey carpark.

The applicant will comply with condition No 7 (b) of the planning authority decision and ensure storage of waste and collection by a registered contractor.

A Fire Safety certificate was issued to the applicant in respect of the premises on 12<sup>th</sup> May, 2009 (copy provided) and the proposal involves renovation and reuse rather than extension of buildings.

It is confirmed that no residential development is proposed rendering issues about escape stairways, sanitary and other facilities irrelevant.

In addition it is claimed that the appellant is not in ownership of property on Rose Inn Street and has no interests that could be affected and that the motivations for the appeal are not based on particular planning concerns.

### **ASSESSMENT.**

Given the sensitive nature of the location and protected status of the buildings. I have carefully the work specifications and methodology submitted in response to the request for additional information, although these matters are not raised in the appeal and as I result, I consider that the historic building considerations are satisfactorily addressed.

The issues that have been raised in the appeal, that is facilities for loading and deliveries, waste management, fire safety are discussed below followed by some observations on other matters raised.

### **Loading and Deliveries.**

I accept that view of the planning authority as submitted on the observations on the appeal and that of the applicants' agent as to the inability to provide facilities on site given the one hundred percent site coverage of the existing buildings with no additional development being proposed. Historically, these buildings have been in industrial retail and residential use and in comparison to former use, it would not be reasonable to regard the proposed development as an intensification of use even if the nature of use is changed. I have noted that the small public carpark almost opposite the site beside the Castle and Bank is being converted to civic space at present so deliveries and loading are confined to on street parking and or use of public carparks or alternative facilities some distance away. The freeing up of space within the site is totally impracticable and it is suggested that loading and deliveries for the proposed office units would be relatively infrequent whereas depending on the retail use at ground floor, the extent of deliveries traffic may vary. Subject to enforcement by the Borough Council on appropriate controls on hours of access and manner in which deliveries and loadings are made, it would appear unreasonable to reconsider the proposed development on these grounds.

### **Waste Management and Disposal.**

Prior to commencement of development the developer shall submit, and obtain the written agreement of the planning authority to, a plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

As regards waste generation, storage and disposal, I consider that the applicant's willingness to provide for compliance with condition no 7 (b) attached to the planning authority decision should provide some assurance that no difficulties arise. The condition can be rephrased to provide for greater clarity in the event that permission is granted.

### **Fire Safety.**

I have noted the Fire Safety Certificate provided by the applicant and this provides some assurance that the development is consistent with the relevant regulatory standards according to fire safety staff. I note that the development is within existing buildings in which the applicant is making provision for upgrading works improving

safety conditions and that consultations took place with the conservation officer in consultation with the council's fire officer. As has been pointed out in the planning authority submission on the appeal, there is no requirement for assurance of compliance with building regulation requirements in consideration of planning applications.

Finally, for clarification purposes I can confirm that I am satisfied that there are no proposals for residential accommodation within the proposal which instead incorporates proposals for change of use from pre-existing residential use in the upper floors to office use. Thus the comments made concerning residential use are irrelevant although a discrepancy on plan drawing 08-011 in the annotations for the third floor plan may have led to some confusion.

Various contentions have been made in the applicants' agent's response to the appeal as to the motivation behind the lodgement of the appeal on the part of the Appellant and I have disregarded same in that I do not consider that there are substantive grounds for dismissal of the appeal and note that relevant planning considerations have been included in the appeal.

In view of the foregoing, it is my opinion that the appeal should be rejected and that the planning authority decision can be upheld. For the purposes of clarity, some minor modification can be made to the requirements of the conditions.

A draft order is set out overleaf.

## DECISION.

**Grant Permission on the Basis of the Reasons and Considerations and subject to the conditions set out below:**

### REASONS AND CONSIDERATIONS

Having regard to the historic central city location and the complete site coverage by the existing buildings within the site that are subject of the proposed development, and the zoning objective, "General Business" it is considered that subject to compliance with the conditions set out herunder, the proposed development would be acceptable in terms of traffic and pedestrian safety and convenience and orderly development and would be in accordance with the proper planning and sustainable development of the area.

### CONDITIONS.

1. The development shall be carried out in accordance with the plans and particulars lodged with the application as amended by the drawings and particulars received by the planning authority on 16<sup>th</sup> Apri, 20009, except as may otherwise be required in order to comply with the following conditions.

**Reason:** In the interest of clarity.

2. The development shall be carried out in entirety under the direction of a person with specialist expertise in building conservation and in accordance with the method statement submitted to the planning authority on 9<sup>th</sup> April, 2009. All works shall be completed to the satisfaction of the planning authority prior to the occupation of the development.

**Reason:** To ensure the protection and preservation of historic building fabric in accordance with good building conservation practice.

3. The developer shall facilitate the planning authority in preserving, recording or otherwise protecting archaeological materials or features that may exist within the site. In this regard, the developer shall -
  - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
  - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
  - (c) provide satisfactory arrangements for the recording and removal of any archaeological material which may be considered appropriate to remove.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation of any remains which may exist within the site.

4. Prior to commencement of development the developer shall submit, and obtain the written agreement of the planning authority to, a plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

5. Details of proposals for external signage, fixture and fittings and lighting shall be subject of a planning application.

**Reason:** In the interest of clarity.

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. The contribution shall be paid prior to the commencement of

development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

**JANE DENNEHY**

**Senior Planning Inspector**

**9<sup>th</sup> September, 2009**