



**An
Bord
Pleanála**

**Board Direction
BD-007925-21
ABP-308604-20**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 16/04/2021.

The Board decided to grant permission, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

Having regard to the mixed use zoning of the site within the town centre location, the established use and planning history of the site, the relevant policies and objectives of the Kilkenny County Development Plan 2014-2020 and the documentation submitted on file, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenity of the area, would not adversely affect the character of the protected structure or the Architectural Conservation Area, and would therefore be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that the conditions imposed with this permission would not exacerbate any noise nuisance for neighbouring residents and the imposition of limitations on times of use and on amplified music in the outdoor area would be likely to address some of the current issues being experienced by residents of the adjoining apartments.

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. No patrons are permitted to use the external seating area after 2200 hours Monday to Sunday.

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

3. The seated dining area shall no longer be used as a smoking area, and no live or amplified music shall be permitted in this outdoor area.

Reason: In the interest of residential amenity.

4. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location shall not exceed:

- (i) An Leq,1h value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive.

- (ii) An Leq,15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.

- (b) All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.

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

5. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of properties in the vicinity.

Board Member



Dave Walsh

Date: 16/04/2021

