



An
Bord
Pleanála

Board Direction
BD-011889-23
ABP-311844-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 10/03/2023.

The Board decided to make a split decision, to

- (1) **grant permission** for the following reasons and considerations and subject to the following conditions for retention of cantilevered extension to existing external licenced terrace to provide an additional 31.7 square metres floor area and associated guardrails/glassed balustrades, construction of an area of raised decking over a section of the existing licenced terrace to permit wheelchair access, resurfacing of external grassed terrace to an area of concrete terracing, one number bar servery on existing bar terrace to be retained, upgrade and improvements to existing external public side entrance including handrails, two number wall-mounted kitchen extractors, and associated site works 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.

and

- (2) **refuse permission** for retention of construction of a new 114 square metres lower-level external licenced terrace and associated guardrails, replacement steps from the original external licenced terrace and their realignment in places leading to the beach, including new section at lower external terrace and associated handrails, guardrails, security gate and an access gate to the lower external licenced terrace, outdoor shower stand, and permission for realignment

of the lower section of steps as constructed, leading to the beach based on the reasons and considerations marked (2) under.

THIS PART OF THE BOARD DIRECTION/DECISION IS QUASHED BY THE HIGH COURT

generally in accordance with the Inspector's recommendation, for the following reasons and considerations.

Reasons and Considerations (1)

Having regard to the town centre location of the site and its zoning under the Tramore Local Area Plan 2014-2020, the scale and design of the proposed development, the pattern of development on the site to date and the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, this element of the development for which retention permission is sought would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. This element of the development shall be retained 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 and the development shall be retained and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Boundary treatments two metres high shall be put in place along the west site boundary, in accordance with proposals which shall be agreed with the planning authority within three months of the date of this Order.

Reason: In the interests of residential amenity and privacy.

3. Landscaping proposals contained on drawing number 21649-2-101 submitted at application stage shall be implemented within 12 months of the date of this Order.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of one year from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

4. Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services, details of which shall be agreed in writing with the planning authority within three months of the date of this Order.

Reason: In the interest of public health.

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 property in the vicinity.

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 within three months of the date of this Order 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.

Note: The Board noted the inspector's recommended Condition number 2 (music) and Condition number 3 (noise monitoring) but did not consider it would be necessary or reasonable to attach these conditions having regard to the specific nature of the element of the development, primarily comprising an extension of an external licenced terrace, for which retention permission is hereby permitted. Specifically the Board noted that apart from the extension, the licenced terrace is not part of the development that is the subject matter of the appeal now before the Board.

Reasons and Considerations (2)

1. The proposed development is located on lands subject to the Open Space zoning under the Tramore Local Area Plan 2014-2020 and, as they represent an extension of the commercial business operating on the subject site, constitute a material contravention of the zoning objective. Further, the proposed development which is located on the cliff face represents an incongruous addition to the cliff face, which otherwise has a natural, weathered character, contrary to policy CZM 3 of the local area plan, which seeks to protect landward and seaward views along the coastline and to manage development so it will not materially detract from the visual amenity of the

coast. This element of the development would, therefore, seriously injure the visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.

2. The proposed development includes the provision of steps leading down to the beach which are outside of the red line application site boundary and which are shown to be outside of the applicant's landholding. In such circumstances, and in the absence of written consent to undertake the proposed works, the Board is precluded from granting permission.

*THIS PART OF THE BOARD DIRECTION/DECISION IS
QUASHED BY THE HIGH COURT*

Board Member:

Patricia Calleary
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Date: 10/03/2023

