

An
Bord
Pleanála

Board Direction
BD-015746-24
ABP-316072-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 27/02/2024.

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 the Retention of the change of use of the shop to a restaurant as constructed, and the change of use of adjoining shop to restaurant with carry out facility ancillary to the restaurant at Market Street Kenmare

and

- (2) refuse permission for the retention of the chimney flue installed in the flat roofed rear extension of the development.

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

Reasons and considerations

Having regard to the town centre location of the development, the mixed use zoning of the site, the provisions of the Kerry County Development Plan and the location of the site in an Architectural Conservation Area, it is considered that subject to compliance with the conditions set out below, the retention of the change of use to a restaurant, incorporating take-away and deli, and permission for the new proposed

shopfront signage, would not seriously injure the visual or residential amenities of the area and therefore would be in accordance with the proper planning and sustainable development of the area.

In deciding to refuse retention of the chimney flue, the Board the flue as constructed seriously injured the visual amenity of the area and the residential amenity of nearby accommodation, and considered the drawings submitted to be inadequate.

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 submitted on the 5th of January 2023 and on the 31st January 2023, 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 development shall be operated only between the times of 10am and 10pm.

Reason: In the interests of residential amenity

3.The skylight in the kitchen shall be fixed in a permanently closed position.

Reason: In the interests of residential amenity

4.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.

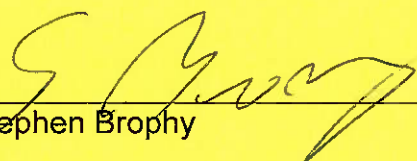
5.The existing shopfront sign shall be removed within 3 months of the date of this grant of the retention permission.

Reason: In the interests of the visual amenity of the area

6.The proposed new hand painted shopfront sign shall be erected with 3 months of date of this grant of permission and the planning authority shall be notified in writing when the works have been carried out.

Reason: In the interests of the visual amenity of the area.

Board Member:



Stephen Brophy

Date: 06/03/2024