

An
Bord
Pleanála

Board Direction
BD-017888-24
ABP-319304-24

The submissions on this file and the Inspector's report were considered at a Board meeting held on 10/10/2024.

The Board previously considered the appeal and issued a split decision in ABP-311844-21 dated 15 March 2023 to part grant and part refuse the permission. The refusal part of the Board's decision in ABP-311844-21 was subject to judicial review. By order of the High Court (Perfected on 9 November 2023) the refusal part was quashed and remitted back to the Board for fresh determination. The grant part of the Board's decision in ABP 311844-21 was not subject to judicial review and remains valid.

The sole aspects of the case under consideration, therefore, relates to the following:

- Retention of:
 - 4. Construction of a new 114 square metres lower-level external terrace and associated guardrails,
 - 7. Replacement steps from the original licensed 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 licensed terrace,
 - 8. Outdoor shower stand, and
- Permission for:
 - 11. Realignment of the lower section of steps as constructed, leading to the beach.

The Board decided to refuse permission, generally in accordance with the Inspector's recommendation, for the following reasons and considerations.

Reasons and Considerations

1. The proposed development (11. Realignment of the lower section of steps) and two of the elements proposed for retention (4. Lower-level external licenced terrace with associated guardrails, and 7. Replacement steps from the original external licenced terrace) are located on lands zoned 'OS Open Space and Recreation', where the stated objective under the Waterford City and County Development Plan 2022-2028 is to 'Preserve and provide for open space and recreational amenities'. The Board considers, on the basis of the specific facts of the proposed development and development proposed for retention, that it represents an extension of the commercial business operating on the subject site and as such, would constitute a contravention of the 'OS Open Space and Recreation' zoning objective. Specifically, this would result in the loss of this site for a use compatible with the zoning objective. This loss, of itself and by the precedent it would set, would threaten the integrity and viability of the wider zoned area for open space and recreation use, thus undermining the achievement of the development plan objective. Further, it is considered that the lower-level external licenced terrace with associated guardrails, which is proposed for retention, would seriously injure the amenities of adjacent dwellings by reason of noise and general disturbance. While the Board noted the zoning objective for the outdoor shower stand proposed for retention is 'TS Tourism', in the absence of a permitted connection to the beach area, the Board considered this element proposed for retention was unwarranted. All elements of the proposed development and development proposed for retention would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the prominent and sensitive location of the development overlooking Tramore beach, it is considered that 4.The lower-level external


licenced terrace with associated guardrails, and 7. Replacement steps from the original external licenced terrace proposed for retention and the proposed development 11. Realignment of the lower section of steps to the beach, would not constitute an appropriate intervention at the cliff face and would have a disproportionate visual impact at a highly sensitive location where there is low capacity to absorb such development. The development is therefore considered to contravene policy C&M 05 'Scenic Coastal Areas' of the Waterford City and County Development Plan 2022-2028, which is to protect the scenic value of Waterford's Coastal Zone including landward and seaward views and continuous views along the coastline and manage development so it will not materially detract from the visual amenity of the coast. The proposed development and development proposed to be retained would, therefore, seriously injure the visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.

Notes:

1. The Board considered that the information provided with the application had not satisfactorily addressed the matter of the potential impact of the proposed development and development proposed for retention on the stability and integrity of the cliff face, where measures have previously been undertaken to address coastal erosion. While ordinarily this would warrant further consideration and a request for further information, in this instance given the substantive reasons for refusal above, it was decided not to pursue this matter under the current appeal.
2. While the Board agreed with the overall thrust of the Inspector's recommendations, the Board noted the Inspector considered all elements of the proposed development and development proposed for retention to be located on land zoned 'OS Open Space and Recreation' under the Waterford City and County Development Plan 2022-2028. The Board, however, considered that the outdoor shower stand (item numbered 8.) to be on land zoned 'TM Tourism', where the stated objective is to provide for tourism uses. Notwithstanding this distinction, the Board considered this element of the

development proposed for retention was unwarranted in a hotel/bar/restaurant premises, where there is no permitted connection to the beach area. This matter is addressed in refusal reason number 1.

Board Member


Martina Hennessy

Date: 17/10/2024