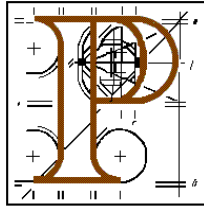


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Donegal County

Planning Register Reference Number: 15/51756

An Bord Pleanála Reference Number: PL 05.246266

APPEAL by Bryan Orr of Dunfanaghy, County Donegal and by Robert Robinson of Main Street, Dunfanaghy, County Donegal against the decision made on the 25th day of February, 2016 by Donegal County Council to grant subject to conditions a permission to Cape Verde Sol Ireland Limited care of Patrick J. Martin Architectural Services, Carrowblagh, Portsalon, Letterkenny, County Donegal in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Extension to existing pizza outlet at rear of Patsy Dan's Bar with removal of existing mono pitched corrugated tin roof to be replaced with low pitched Kingspan insulated panel roofing system to reduce noise levels and all associated site works, all at Main Street, Dunfanaghy, County Donegal.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to the nature, scale and design of the proposed development and to the planning history of the area, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the residential amenities of property in the vicinity or of visual amenities of the area, would be in accordance with the provisions of the current Development Plan for the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

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. The translucent panels in the roof of the extended dining area hereby permitted shall be switched to the east-facing pitched portion of the roof (that is, onto the roof of the extended section of the premises) and all panels on the west-facing pitch of the roof shall be insulated panels. The existing roofing material shall be removed and replaced with solid sound-proofed material to the written satisfaction of the planning authority within three months of the date of this order.

Reason: In the interest of residential amenity.

3. The pizza and dining area hereby approved shall operate as an ancillary use to the existing licensed premises unless authorised by a prior grant of planning permission.

Reason: In the interest of orderly development.

4. (a) There shall be no amplified sound used externally at the premises at any time.

(b) Service of food on the premises shall cease at 2200 hours from Monday to Sunday inclusive.

Reason: In the interest of residential amenity.

5. (a) All seating and standing areas associated with the hereby permitted ancillary development shall be proximate to the canopies and the 'dining area' hereby permitted, shall not extend north of the rear gated entrance and shall be clearly separated by a timber 'divide'.

(b) Revised plans and elevations shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development, showing same 'divide' and providing for a 1.8 metre timber fence running from the north-most edge of the rear gated entrance to a point two metres or less from the north elevation of the structure indicated as 'generator store' on the site layout (Drawing Number 4814/001) submitted as part of the previous application under planning register reference number 14/51344, An Bord Pleanála reference number PL 05E.244432.

Reason: To comply with condition number 5 of the previous permission granted under An Bord Pleanála reference number PL 05E.244432, and in the interest of orderly development and residential amenity.

6. The 1.8 metre timber fence referred to in the previous condition shall be provided with a pedestrian gateway which shall be kept locked except when in domestic use by the owner/operator of the premises. No access to this area shall be permitted by patrons.

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

7. The development shall be operated and managed in accordance with an Environmental Management System (EMS), which shall be submitted by the developer to, and agreed in writing with, the planning authority prior to commencement of development. This shall include the following:

- (a) Proposals for the on-going monitoring of sound emissions at dwellings in the vicinity.

- (b) Proposals in plan and elevation form in addition to technical specifications for re-routing of ventilation and ducting pipework associated with the pizza area (Heat Producing Appliances) to the eastern-most containing wall of the site, whereby fumes and smoke will have an outlet point via flue over and above this structure (600 millimetres to one metre to be agreed with the planning authority) and in full compliance with Building Regulations 2014. Work shall be carried out within three months of the date of this permission.

Reason: In the interest of environmental and residential amenity.

8. 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 prior to 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 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.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2016.