

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Kerry County

Planning Register Reference Number: 16/313

An Bord Pleanála Reference Number: PL 08.246819

APPEAL by John Joe Fealy (Junior) of Fealy's The Abbey Grill, Abbeydorney Village, Abbeydorney, County Kerry against the decision made on the 1st day of June, 2016 by Kerry County Council to grant subject to conditions a permission to Twomey's Tavern Limited care of Donal Brosnan Architectural Design and Development Limited of Reacashla, Brosna, Tralee, County Kerry in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: (1) Retention of the use of part of the car park area for the operation of a mobile catering unit, (2) permission for demolition of an existing outbuilding and (3) permission for the construction of two number units as follows: (a) Unit 1 for the sale of food for consumption off the premises and (b) Unit 2 for retail. All at Montanagay (The Village), Abbeydorney, County Kerry.

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 provisions of the Kerry County Development Plan 2015-2021, the Tralee Killarney Hub Functional Areas Local Area Plan 2013-2019, the nature and scale of the proposed development and the development proposed for retention and to the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development and the development proposed for retention would not seriously injure the amenities of the area or of property in the vicinity. The proposed development and the development proposed for retention would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out, completed and retained 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, completed and retained in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The use of part of the car park area for the operation of a mobile catering unit shall be for a period of five years from the date of this order. In the event that Unit 1 for the sale of food for consumption off the premises is completed prior to the expiration of the aforementioned five years, the use of the car park for the operation of a mobile catering unit shall immediately cease.

Reason: In the interest of residential and visual amenity.

3. The site shall be landscaped in accordance with a comprehensive scheme of landscaping with specific attention to the river side boundaries, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. Prior to commencement of development, the developer shall submit for the written agreement of the planning authority details demonstrating compliance with the following:

- (a) The ventilation system shall be adequately filtered and externally vented so as not to cause a nuisance to neighbouring properties.
- (b) Any fumes emitted from the premises shall be minimised and, if necessary, treated using the best available technology and emitted to the outer air.
- (c) The noise from the operation of the ventilation system shall be attenuated so as not to cause a noise nuisance to nearby residential properties.

Reason: In the interest of public health.

5. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

6. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the building or within the curtilage of the site unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

7. Details of all external shopfronts and signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the amenities of the area and in the interest of visual amenity.

8. Prior to commencement of development, the developer shall submit details in relation to increasing the flood resistance and flood resilience of the development for the written agreement of the planning authority.

Reason: In the interests of flood protection and the proper planning and sustainable development of the area.

9. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

10. 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.