



An
Bord
Pleanála

**Board Order
PL 88.249353**

Planning and Development Acts 2000 to 2017

Planning Authority: Cork County Council

Planning Register Reference Number: 17/00449

Appeal by Christian Barcoe of Donemark West, Newtown, Bantry, County Cork against the decision made on the 4th day of September, 2017 by Cork County Council to refuse permission for the proposed development.

Proposed Development: Retention of change of use from shop/office/petrol station/car valeting centre to restaurant/café, two number extensions to premises, retention of container for storage, external covered seating area and site works and permission for decommissioning of existing septic tank and percolation area and permission for construction of wastewater treatment system and polishing filter at Newtown, Bantry, County Cork.

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 established use of the site for commercial purposes, to the nature and extent of the change of use to restaurant/café and extensions to be retained, it is considered that, subject to compliance with the conditions set out below, the proposed development and the development for which retention is sought would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health, would not constitute a significant intensification of the site as compared to the established and previous permitted uses, and would be acceptable in terms of traffic safety and convenience. The proposed development and the development for which retention is sought would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board noted that reasons numbers 1 and 2 of the planning authority's decision in this case referred to the subject development contravening materially certain provisions of the current Development Plan for the area. The Board did not agree that the reasons involved amounted to material contraventions in this case, and considered that the development was acceptable, for the reasons and considerations outlined in its order, and as recommended by the Senior Planning Inspector. Accordingly, the Board did not consider that it was constrained by the provisions of Section 37 (2)(b) of the Planning and Development Act 2000, as amended, in reaching its decision to grant permission.

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 within two months of the date of this order, and the development shall be carried out, completed and retained in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. (a) Within two months of the date of this order, a revised site plan with the location of the effluent treatment plant and appropriately sized polishing filter and timescale for installation shall be submitted to, and agreed in writing with, the planning authority. The treatment plant and polishing filter shall be in accordance with the requirements of the Wastewater Treatment Manual 'Treatment Systems for Small Communities, Business, Leisure Centre and Hotels', Environmental Protection Agency. No system other than the type proposed in the submission shall be installed unless agreed in writing with the planning authority.
- (b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.

(c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.

(d) Within three months of installation of the treatment system, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the Environmental Protection Agency document.

Reason: In the interest of public health.

3. (a) The proposed access arrangements as delineated on site layout drawing number 16151-SL-101, received by the planning authority on the 10th day of July, 2017, shall be completed within three months of the date of this order.

(b) Details of the roadside boundary treatment and finishes shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of the works.

Reason: In the interest of traffic safety.

