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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Donegal County Council**

**Planning Register Reference Number: 18/50029**

**Appeal** by Seamus Martin care of McMullin Associates of Tirchonail Street, Donegal Town and by John Begley care of McMullin Associates of Tirchonail Street, Donegal Town against the decision made on the 8<sup>th</sup> day of March, 2018 by Donegal County Council to grant subject to conditions a permission to Michael Boyle on behalf of Fanad Head Limited care of Corner Stone Architecture of Ballykillduff, Portnoo, County Donegal in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Retention of (1) roof works covering existing alley-way, (2) new bar and toilet area to rear of alley-way with connection to existing services, (3) internal remedial works for increased lounge area, (4) two number smoking areas to rear of site, and (5) installation of a steel container with timber cladding at rear of site for bar storage, and permission for (1) change of use from existing boutique shop to new bar area with associated toilet facilities and including new access doors to side elevation, (2) creation of new toilets and extended bar area to rear of unit, (3) new single storey stone clad frontage with pitched roof over to front of the existing alleyway connecting the existing buildings and (4) alterations to the front facade of the existing boutique shop incorporating new lighting and signage

together with all associated site development works at McCafferty's Bar and Boutique, The Diamond, Donegal Town, 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 “town centre” zoning objective of the site and the location of the site within an “area of townscape character”, together with the established nature of the business and the design, scale and layout of the development, it is considered that, subject to compliance with the conditions set out below, the development proposed to be retained and the proposed development would not seriously injure the visual amenities of the streetscape or the residential amenities of property in the vicinity. The development to be retained and the proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## Conditions

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

**Reason:** In the interest of clarity.

2. The proposed new pitched roof stone clad frontage to the alley-way shall be omitted and the existing gateway access shall be retained.

**Reason:** In the interests of visual amenity and character of the streetscape.

3. Live and/or amplified music entertainment shall be confined to internal building areas and shall not be played within the covered alley-way or any other external areas.

**Reason:** In the interests of residential amenity.

4. Within three months of the date of this Order, the developer shall submit to and agree in writing with the planning authority proposals for the implementation of the noise mitigation measures, as outlined in the Section 4 of the Acoustic Assessment submitted to the Board on the 27<sup>th</sup> day of April, 2018.

This shall include but not necessarily be limited to the following:

- (a) Installation of sound insulation below the alley roof structure;
- (b) Fitting of a gap or insulation strip where roof supports abut neighbouring property walls;
- (c) Construction of a rear lobby with automatically closing doors as illustrated in the drawing appended to the Acoustic Assessment;
- (d) Construction of a smoking shelter as illustrated in Figure 8 of the Acoustic Assessment to replace existing shelters;
- (e) Fitting of noise attenuators to any openings required for ventilation or air conditioning purposes;
- (f) Filling of any other gaps to reduce noise from escaping the premises.

The above measures shall be fully implemented with three months of the date of the agreement of the planning authority and written confirmation of the completion of these works shall be furnished to the planning authority.

**Reason:** In the interest of residential amenity.

5. This permission does not authorise the use of the rear yard as a beer garden. Within three months of the date of this Order, the developer shall submit to and agree in writing with the planning authority revised proposals for partial enclosure of the smoking area and for gated access from the smoking area to the rear yard.

**Reason:** In the interest of residential amenity.

6. The bar frontage shall be in accordance with the following requirements:-

- (a) Signs shall be restricted to a single fascia sign using sign writing or comprising either hand-painted lettering or individually mounted lettering;
- (b) Signage shall be in Irish language only, or if bilingual signage is proposed, Irish language shall be given prominence;
- (c) Any stone cladding shall be constructed from stone local to the area;
- (d) All external lights shall be adequately hooded and aligned to prevent spillage of light onto the public road/ adjoining properties;

**Reason:** In the interest of visual amenity.

7. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, other than the single fascia sign authorised under condition number 6(a) above, unless authorised by a further grant of planning permission.

**Reason:** To protect the visual amenities of the area, and to allow the planning authority to assess any other signage through the statutory planning process.

8. 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:** In the interest of public health.

9. 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 within three months of the date of this order 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

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**Terry Ó Niadh**

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

**Dated this            day of            2019.**