



Planning and Development Acts 2000 to 2019

Planning Authority: Waterford City and County Council

Planning Register Reference Number: 18/497

Appeal by Michael Ryan care of Future Analytics Consulting Limited of 23 Fitzwilliam Square (South), Dublin against the decision made on the 20th day of March, 2019 by Waterford City and County Council to refuse permission for the proposed development.

Proposed Development: Change of use from former railway cottage to café/restaurant to include single-storey extension to the rear of existing cottage to provide for new tea rooms, kitchen and ancillary toilet facilities, outside eating area, terrace and take out, kids play area, internal and external alterations to existing cottage, signage, canopy, together with all associated site works and drainage connections, landscaping, delivery area and bicycle stands, all at Scartore, Ballinroad, Dungarvan, County Waterford. The proposed development was revised by further public notices received by the planning authority on the 18th and 28th days of February, 2019.

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

In coming to its decision, the Board had regard to the following:

- the Waterford County Development Plan 2011 (as varied),
- the pattern of development in the area,
- the provision of an existing public car parking area adjacent to the site,
- the nature, scale and layout of the proposed development,
- the submissions on file, and
- the Inspectors report.

The Board considered that, subject to compliance with the conditions set out below, the proposed development would represent a sensitive, positive and appropriate re-use of the existing railway cottage structure and would improve the tourist offering associated with the Waterford to Dungarvan Greenway and promote and support the use of the Greenway as a cycling and pedestrian amenity and destination. The Board considered that the connection to the public sewer was achievable and therefore that the proposed development would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board was satisfied that the nature, scale and layout of the proposed development was acceptable and sympathetic to its context and surroundings and would not have a negative impact on the residential or visual amenities of adjoining properties and therefore, considered that the principle of the development adjacent to the Greenway was acceptable and therefore in accordance with the proper planning and sustainable development of the area.

Furthermore the Board was satisfied that having regard to the pattern of development, and permissions granted, in the area since the making of the development plan, the provisions of section 37(2)(b)(iv) of the Planning and Development Act 2000, as amended, applied under which instance the Board may decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board was satisfied that the proposed development was acceptable in principle and in terms of its nature, scale, design and context and that a feasible connection to the foul sewer could be achieved and that the proposed development was therefore 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, as amended by the further plans and particulars submitted on the 8th day of February, 2019, 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. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. The applicant or developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

4. 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

5. 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.

Paul Hyde

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

Dated this day of 2019.