

An
Bord
Pleanála

Board Order
ABP-311347-21

Planning and Development Acts 2000 to 2021

Planning Authority: Cork County Council

Planning Register Reference Number: 20/06168

Appeal by Brian O'Neill of The Tap Tavern, Guardwell, Kinsale, County Cork against the decision made on the 16th day of August, 2021 by Cork County Council to grant subject to conditions a permission to Denis Noel O'Mahoney care of Richard Rainey Architects of 71 Lower O'Connell Street, Kinsale, County Cork in accordance with plans and particulars lodged with the said Council:

Proposed Development: The demolition of existing single storey commercial retail unit and the construction of a 10-bedroom commercial guest house comprising part three-storey and part two-storey, with associated dining room, professional kitchen and reception area, connection to public services and all associated site works at Kinsale Tile Store, Guardwell, Town-Plots, Kinsale, 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 nature and scale of the proposed development and its location on an infill site within the town centre, it is considered that, subject to compliance with the conditions as set out below, the proposed development would be compatible with the form and character of the Kinsale Architectural Conservation Area and would not seriously injure the amenities of neighbouring properties. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board had regard to the scale of the 10 bedroom guesthouse proposed on an infill site in the centre of the town, the policies of the current county development plan, in particular Section 10.4.15 where the provision of on-site car parking is not normally sought for small scale infill developments.

and in Appendix D - Note 5 which states that car parking standards do not apply to small scale infill developments in town centres, the provision of secure covered on-site cycle parking, and the change in use to Guest House accommodation which results in a less intensive parking use as per the current Town Development Standards, it is considered that the proposed development would not be in conflict with any development plan objective or policy, 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 as amended by the further plans and particulars submitted on the 19th day of July, 2021, 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 applicant shall submit details, including the location and material specifications of all proposed signage, lighting, CCTV and utilities proposed to the exterior of the building for the written agreement of the planning authority.

Reason: In the interest of preserving the architectural heritage.

3. Signage shall be restricted to the fascia only. Signage shall either be painted or consist of individual raised lettering. Details of the same shall be submitted to the planning authority for written agreement prior to commencement of works.

Reason: In the interest of protecting and enhancing the character of the Architectural Conservation Area.

4. 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, unless authorised by a further grant of planning permission.

Reason: To protect the character of the Architectural Conservation Area.

5. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no awnings, lighting units, CCTV, alarm boxes, satellite dishes, external shutters shall be erected to the building, unless authorised by a further grant of planning permission.

Reason: In the interest of protecting the character of the protected structure.

6. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

7. The applicant shall submit samples and/or details of all doors for the written agreement of the planning authority.

Reason: In the interest of protecting the character of the Architectural Conservation Area.

8. All windows shall be timber framed, up and down, sliding sashes.

Reason: In the interest of protecting the character of the Architectural Conservation Area.

9. Natural roof slates shall be applied in diminishing courses. Details of the same shall be submitted for the written agreement of the planning authority.

Reason: To conserve and enhance the character of the Architectural Conservation Area.

10. The proposed structure shall be operated as an integrated business by a single operator and the ground level restaurant use shall not be used for takeaway (without planning permission) and no change of use or sub-division shall take place without benefit of a further planning permission, notwithstanding the exempted development provisions of the Planning and Development Regulations 2001, as amended.

Reason: To safeguard the amenities of the area.

11. The applicant is required to engage the services of a suitably qualified archaeologist to monitor under licence from the National Monuments Service of the Department of Culture, Heritage and the Gaeltacht (DCH&G), all ground works including ground excavation and disturbance associated with the development. The ground works shall be carried out under the direction of the appointed archaeologist; no ground works to take place in the absence of the archaeologist. In the event that archaeological material is found during the course of monitoring, the archaeologist shall have work immediately suspended in that area, pending a decision as to how best to deal with the archaeology. All archaeological features/deposits shall be hand-cleaned and clearly visible and no further soil removal shall take place pending a decision as to how best to deal with the archaeology. The developer shall be prepared to be advised by the Local Authority Archaeologist and the National Monuments Service (DCH&G) in regard to any necessary mitigating action (that is preservation in situ, or excavation) and allow enough time to facilitate implementation of the agreed mitigation measures. The applicant shall facilitate the archaeologist in recording any material found. The planning authority and the National Monuments Service (DCH&G) shall be furnished with a report describing the results of the monitoring.

Reason: In interest of preserving items of archaeological interest.

12. Full details of the exact location of the proposed kitchen exhaust filtration (and flue pipes) unit shall be submitted for the written agreement of the planning authority and once agreed this unit shall be installed, commissioned and maintained to recognised operational standards to the satisfaction of the planning authority prior to first commencement of the use.

Reason: To ensure the visual and amenity impacts of the odour apparatus are installed in locations that preserves the character and setting of Saint Multose and surrounding Architectural Conservation Area.

13. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

14. 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 noise management measures and off-site disposal of construction/demolition waste.

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

15. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

16. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.


Reason: In the interest of public health.

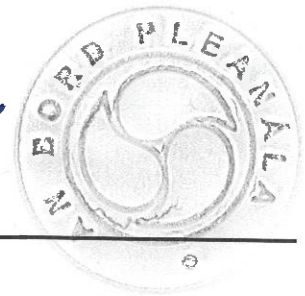
17. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

18. 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.


Michelle Fagan
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board



Dated this 21st day of January 2022