



An
Bord
Pleanála

Board Order
ABP- 312291-21

Planning and Development Acts 2000 to 2022

Planning Authority: Kerry County Council

Planning Register Reference Number: 21/760

Appeal by EHD Limited care of Hughes Planning and Development Consultants of 85 Merrion Square, Dublin against the decision made on the 24th day of November, 2021 by Kerry County Council in relation to an application for permission for (1) retention of change of use of private living accommodation at ground floor level to use as a public bar, (2) retention of paved seating area and open serving area to the rear of premises, and (3) retention of modifications to that previously granted planning permission under planning register reference number 16/998 including a single storey extension to the rear consisting of toilets and a cold room to the existing public bar known as Bob Griffin's Bar with associated signage and site works, which is a protected structure (council reference KY 043-027) at Strand Street, Dingle, County Kerry (the proposed development was revised by further public notices reviewed by the planning authority on the 22nd day of October, 2021 and the 29th day of October, 2021) in accordance with the plans and particulars lodged with the said Council (which decision was to grant subject to conditions permission for (1) retention of change of use of private living accommodation at ground floor level to use as a public bar, (3) retention of modifications to that previously granted planning permission under planning register reference number 16/998 including a single storey extension to the rear consisting of toilets and a cold room to the existing public bar known as Bob Griffin's Bar with associated signage and site works, which is a protected structure (council reference KY 043-027) and to

refuse permission for (2) retention of paved seating area and open serving area to the rear of premises.

Decision

GRANT permission for (1) retention of change of use of private living accommodation at ground floor level to use as a public bar, (3) retention of modifications to that previously granted planning permission under planning register reference number 16/998 including a single storey extension to the rear consisting of toilets and a cold room to the existing public bar known as Bob Griffin's Bar with associated signage and site works, which is a protected structure (council reference KY 043-027) in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below.

REFUSE permission for (2) retention of paved seating area and open serving area to the rear of premises based on the reasons and considerations marked (2) under.

Reasons and Considerations (1)

Having regard to the town centre zoning objective for the site, the pattern of development along Strand Street and the scale, nature and design of the development to be retained, it is considered that, subject to compliance with the conditions set out below, the development proposed to be retained within the existing premises and as extended by the ground floor development would be acceptable in terms of scale and design and would not seriously the amenities of the area or of property in the vicinity and would not adversely affect the architectural integrity of the protected structure on site . The development proposed to be retained 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, as amended by the further plans and particulars received by the planning authority on the 20th day of August, 2021 and on the 13th, 22nd and 29th days of October, 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 and the development shall be completed and retained in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The following alterations shall be carried out within three months of the date of this order and as constructed drawings and details shall be lodged with the planning authority within six months of the date of this order:-

- (a) the partially enclosed serving area to the rear of the ladies WC as indicated on the submitted layout plans shall be removed together with its roof and the remaining roof over the extension to be retained shall be made good and match in materials and finish,
- (b) the side door in the rear elevation shall be permanently closed and not used for public access, and
- (c) the new timber shop front elevation shall be removed and the façade signage shall be reinstated over the entrance door as illustrated in the elevation details in drawing number 07-021-J041-002, dated the 2nd day of July, 2021.

Reason: In the interest of the proper planning and sustainable development of the area.

3. The main public entrance shall be from the main street (the original entrance) and the rear entrance shall be for ancillary staff use and fire safety only.

Reason: To ensure that the integrity of the retained protected structure is maintained.

4. The developer shall submit proposals for the weathering of external walls of the Protected Structure together with a timeframe for these works. All work shall be completed in accordance with a written agreement of the planning authority and an agreed schedule with the planning authority. All works shall be completed within 10 months of the date of this order, unless otherwise agreed in writing with the planning authority.

Reason: To ensure that the integrity of the retained structure is maintained and that the structure is protected from unnecessary damage or loss of fabric.

5.
 - (a) A conservation expert shall be employed to manage, monitor and implement the works on site and to ensure adequate protection of the retained and historic fabric during the works. In this regard all permitted works shall be designed to cause minimum interference to the retained building and facades of the structure or its fabric.
 - (b) All repair and reinstatement works to the protected structure shall be carried out in accordance with best conservation practice and the Architectural Heritage Guidelines for Planning Authorities (Department of Arts, Heritage and the Gaeltacht, 2011).

Reason: To ensure that the integrity of the retained structures is maintained and that the structure is protected from unnecessary damage or loss of fabric.

6.
 - (a) Amplified music or other specific entertainment noise emissions from the premises shall not exceed the background noise level by more than 3 dB(A) during the period 0800 to 2000 hours Sunday through to

Thursday and 0800 to 2200 Friday, Saturday and days before Bank Holidays and by more than 1dB(A) at any other time when measured at any external position adjoining an occupied dwelling in the vicinity. The background noise level shall be taken as L90 and the specific noise shall be measured at Laet.

- (b) The octave band centre frequencies of noise emission at 63 Hz and at 125 Hz shall be subject to the same locational and decibel exceedance criteria in relation to background noise levels as set out in (a) above. The background noise level shall be measured at Laet.
- (c) The background noise levels shall be measured in the absence of the specific noise, on days and at times when the specific noise source would normally be operating either,
 - (i) during a temporary shutdown of the specific noise source, or
 - (ii) during a period immediately before or after the specific noise source operates.
- (d) When measuring the specific noise, the time (T) shall be any five minute period during which the sound emission from the premises is at its maximum level.
- (e) Any measuring instrument shall be precision grade.

Detailed plans and particulars indicating the sound proofing or other measures to ensure compliance with this condition shall be submitted to, and agreed in writing with, the planning authority within three months from the date of this order. An acoustical analysis shall be included with this submission to the planning authority.

Reason In order to protect the amenities of residential property in the vicinity having particular regard to the nuisance potential of low frequency sound emissions during the night-time hours.

7. Notwithstanding the exempted development provision of the Planning and Development Regulations, 2001 or any statutory provision amending or replacing them, any advertising signs, symbols, emblems, flags, nameplates, canopies or other advertising devices visible from the street shall be the subject of a separate application for permission to the planning authority.

Reason: To enable the planning authority to assess the impacts of any such changes on the character of the protected structure and the visual amenities of the streetscape.

8. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

9. Landscaping of the site shall be carried out in accordance with a landscaping scheme, details of which shall be submitted to, and agreed in writing with, the planning authority within three months of the date of this order. All works shall be completed within 12 months of the date of this order.

Reason: To ensure the protection of the hedgerow habitat and in the interest of visual 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 within

three months from 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.

Reasons and Considerations (2)

The development proposed to be retained would seriously injure the residential amenities of the area and depreciate the value of property in the vicinity by reason of the noise and disturbance generated. The development proposed to be retained would, therefore, be contrary to the proper planning and sustainable development of the area.



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

Dated this 13th day of July 2023