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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Donegal County Council**

**Planning Register Reference Number: 22/50431**

**Appeal** by Paul McGurk care of Joe Bonner Town Planning Consultants Limited of The Airport Hub, Unit 1, Furry Park, Old Swords Road, Santry, Dublin and by K&H Promotions care of October House Designs Limited of Corlea, Ballyshannon, County Donegal against the decision made on the 28<sup>th</sup> day of April, 2022 by Donegal County Council in relation to an application by K&H Promotions for retention of a shed for use as an outdoor seating area and a beer garden area at The Phoenix Tavern, Main Street, Bundoran, County Donegal in accordance with plans and particulars lodged with the said Council (which decision was to grant subject to conditions permission for retention of a beer garden area and to refuse permission for retention of a shed for use as an outdoor seating area).

**Decision**

**GRANT permission for retention of a beer garden area 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 retention of a shed for use as an outdoor seating area based on the reasons and considerations marked (2) under.**

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## Reasons and Considerations (1)

Having regard to the modest size of the beer garden proposed to be retained and its location removed from nearby residential development, and situated alongside the existing public house, it is considered that, subject to compliance with the conditions set out below, this element of the development proposed to be retained would be consistent with the Town Centre zoning of the site, would be compatible with adjoining land uses, would not seriously injure the amenities of property in the vicinity, and would not give rise to a traffic hazard or be prejudicial to public health. This element of the development proposed to be retained would, therefore, be in accordance with the proper planning and sustainable development of the area.

## Conditions

1. This element of the development shall be 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 and the development shall be retained in accordance with the agreed particulars.

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

2. Surface water from the site shall not be permitted to drain onto the adjoining public road.

**Reason:** In the interest of traffic safety.

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3. Public lighting shall be provided in accordance with a 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.

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

4. Signage shall be in the Irish Language only, or if bilingual signage is proposed, then the Irish language shall be first and shall be of an area, size and prominence that it is greater than the average size and prominence of other languages.

**Reason:** To cater for orderly development and to support the linguistic base of the area.

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.

## Reasons and Considerations (2)

1. Having regard to the substantial scale of the outdoor seating area, its proximity to residential properties and late opening hours, it is considered that this element of the development proposed to be retained would seriously injure residential amenities. Furthermore, the appearance of the outdoor seating area is not of a high architectural standard and detracts from the appearance of the area, and in this respect detracts from the vitality, viability and character of the town centre. This element of the development proposed to be retained would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location, nature, scale and form of the outdoor seating area, it is considered that this element of the development proposed to be retained would result in conflicting vehicular and pedestrian movements at the location of the entrance to the eating area and on the access road to the car park and caravan park. This element of the development proposed to be retained would, therefore, endanger public safety by reason of traffic hazard and would be contrary to the proper planning and sustainable development of the area.



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**Peter Mullan**

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



Dated this *10th* day of *August*, 2023.