

An
Bord
Pleanála

Board Order
ABP-313775-22

Planning and Development Acts 2000 to 2022

Planning Authority: Kerry County Council

Planning Register Reference Number: 22/77

Appeal by Patrick and Kathleen Finnegan care of Andrew Hersey Planning of 3 Atlantic View, West End, Kilkee, County Clare against the decision made on the 16th day of May, 2022 by Kerry County Council to grant subject to conditions a permission to Tom Crowley care of Frank Coffey, Consulting Engineer of Daly's Lane, Killorglin, County Kerry in accordance with plans and particulars lodged with the said Council.

Proposed Development: Redevelop premises formerly known as Sheila O'Neills/Dail Bar to include the following; (1) partial demolition of existing structure to create wider laneway access on ground floor level, with front elevation changes, (2) internal alterations to the existing bar with the addition of a new stairwell to the first and second floors, (3) construction of toilets and keg store at rear, (4) roofing and refurbishing existing double height outbuilding for use as bar and performing arts centre, (5) development of rear yard as beer garden complete with parasols and awnings, (6) redevelopment of first floor as apartment and staff facilities and (7) redevelopment of second floor as apartment at Upper Bridge Street, Killorglin, County Kerry.

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.

Reasons and Considerations

Having regard to the location of the site within the town centre of Killorglin, County Kerry and on lands zoned town centre, together with the existing uses associated with the subject site, and having regard to the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be detrimental to the character of the area and would be acceptable in terms of pedestrian and traffic safety. The proposed development 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 April, 2022 and the 10th day of May, 2022, 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. Prior to the commencement of development, the developer shall submit revised apartment floor plans to ensure compliance with Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in December, 2020, as they relate to the provision of storage.

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

3. Prior to the commencement of development, a Method Statement for the proposed works to the wall of the protected structure to the north of the site including the installation of retractable awnings, the proposed reinstatement of the original laneway onto Upper Bridge Street, Killorglin, as well as the restoration works to the old store building, proposed Performing Arts Centre and the materials to be used for the entrance gate shall be submitted to, and agreed in writing with, the planning authority. The development shall be carried out in accordance with this plan, and the relevant works shall be restricted to conservation, consolidation and presentation works. The reports shall be prepared by a conservation expert, approved by Kerry County Council, who shall manage, monitor and implement works on the site and ensure adequate protection of the historic fabric during those works.

All repair/restoration works shall be carried out in accordance with best conservation practice as detailed in the application and the “Architectural Heritage Protection Guidelines for Planning Authorities” issued by the Department of Arts, Heritage and the Gaeltacht in 2011. The repair/restoration works shall retain the maximum amount possible of surviving historic fabric in-situ including structural elements, plasterwork and joinery where relevant, and shall be designed to cause minimum interference to the building structure and/or fabric.

Reason: To ensure that these elements of the historic structure are maintained and protected from unnecessary damage or loss of fabric and in the interest of preserving the architectural integrity and heritage value of the retained structures.

4. (a) Amplified music or other specific entertainment noise emissions from the premises shall not exceed the background noise level by more than three dB(A) during the period 1200 to 2200 hours and by more than one dB(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 LAeqT.
- (b) The octave band centre frequencies of noise emissions 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 levels shall be measured at LAeqT.
- (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 sound-proofing or other measures to ensure compliance with this condition shall be submitted to, and agreed in writing with, the planning authority prior to the use of the premises. 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 night-time hours.

5. 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 traffic management, noise management measures and off-site disposal of construction/demolition waste.

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

6. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

7. Details of the materials, colours and textures of all the external finishes to the proposed development, including windows, doors and roof finishes, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Sample panels shall be erected on site for inspection by the planning authority in this regard.

Reason: In the interest of visual amenity.

8. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 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 residential amenities of property in the vicinity.

9. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of orderly development and the visual amenities of the area.

10. All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.

Reason: In the interest of residential amenity.

11. A plan containing details for the management of waste 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. Thereafter, the waste shall be managed in accordance with the agreed plan.

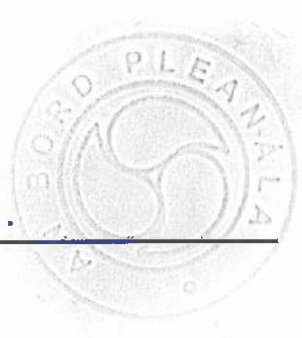
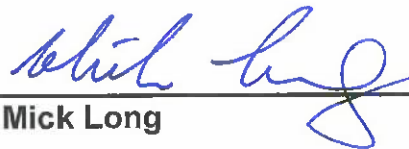
Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

12. Notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no additional development shall take place at roof level, including any 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 visual amenities of the area, and to permit the planning authority to assess any such development through the statutory planning process.

13. 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.



Mick Long

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this 29 day of August 2023.