

An
Bord
Pleanála

Board Order ABP-318152-23

Planning and Development Acts 2000 to 2022

Planning Authority: Kildare County Council

Planning Register Reference Number: 22/1215

Appeal by Garrett Melia of Pigeon Lane, Kildare Town, County Kildare against the decision made on the 11th day of September, 2023 by Kildare County Council to grant subject to conditions a permission to Nicholas and Catriona Kaye care of O'Loughlin Architects Limited of Redhills House, Kildare, County Kildare in relation to an application for retention of a partially completed first floor residential extension to existing first floor residence (over existing ground floor public house), all to the rear of existing two-storey structure, associated alterations to side and rear elevations and all associated site works and permission for the completion of this first floor residential extension and alterations to same, including independent stair access and associated alterations to side and rear elevations and the extension of the ground floor public house into the existing outbuildings (to be refurbished) and extension to same outbuildings, all incorporating bar area, toilets, bar and bin storage and ancillary office space all in a single storey and one-and-one-and-a-half storey extension, in a court yard type development, ancillary changes to side and rear elevations, foul water and surface water to existing mains sewers and all associated site works (including the removal of temporary timber bar structures to rear), all at The Harp Bar, White Abbey Road, Kildare, County Kildare (a protected structure RPS number B22-41, NIAH reference 11817028) (which decision was to grant subject to conditions permission for the extension of the ground floor public house into the existing outbuildings (to be refurbished) and extension to same outbuildings,

all incorporating bar area, toilets, bar and bin storage and ancillary office space all in a single storey and one-and-one-and-a-half-storey extension, in a court yard type development, ancillary changes to side and rear elevations, foul water and surface water to existing mains sewers and all associated site works (including the removal of temporary timber bar structures to rear) and to refuse permission for retention of a partially completed first floor residential extension to existing first floor residence (over existing ground floor public house), all to the rear of existing two-storey structure, associated alterations to side and rear elevations and all associated site works and the completion of this first floor residential extension and alterations to same, including independent stair access and associated alterations to side and rear elevations).

Decision

GRANT permission for the above proposed development based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

It is considered that, subject to compliance with the conditions set out below, the development proposed to be retained and proposed development would be in accordance with Objective AH 021 of the Kildare County Development Plan 2023-2029, to protect the curtilage of protected structures, would restore structures within the curtilage of the protected structure, and would provide an extension to the rear of the property that facilitates its continued use as both a house and public house as described in Appendix 6 of the development plan. The development proposed to be retained and 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 considered the totality of the file. The grounds of appeal included the issue of noise, the Inspector included noise in the recommendation to refuse permission. The Board noted the assessment and recommendation of the planning authority regarding the extension of the ground floor public house into the existing outbuilding (to be refurbished) and extensions to same outbuildings, incorporating bar area, toilets, bar and bin storage area and ancillary office space and ancillary works. The Board noted the information submitted at further information stage and the planning authority's assessment and the conditions applied. The Board decided that the mitigations measures and the conditions recommended address the issue of noise.

The Inspector's second reason for refusal related to the architectural language of the proposed first floor extension. The Board noted that the rear extension was revised at further information stage with the floor area of the extension reduced and the design altered to read as a contemporary intervention. The Board considered the planning authority's Conservation Officer's assessment that welcomed the reduction but considered the revised design appears to overwhelm, and considerably detract from the adjoining protected structure. The planning authority raised issue with the proposed finish, "standing seam metal box". The Inspector concurred with the planning authority. The Board considered the revisions made at further information stage reduced the scale and prominence of the extension relative to the protected structure. The Board agreed with the planning authority that the finishes, particularly at first floor, are not appropriate but considered this could be dealt with by way of condition. On the matter of the scale of the extension, the Board considered when the development, as revised at further information stage, is viewed in the new setting, specifically the restored outbuildings (that are within the curtilage of the protected structure), that the impact of the proposed extension to the rear would be read as part of the complex of buildings and will be significantly less impactful than the existing unfinished extension currently on site and would not overwhelm the protected structure. The Board welcomed the proposed residential use of the first floor. The Board concurred with the Inspector's assessment of traffic related issues.

Conditions

1. The development shall be retained, carried out and completed 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 16th day of August, 2023, 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 retained, carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Within six months of the date of this Order, all temporary structures indicated on Drawing AI 2558 01 shall be removed from the development site.

Reason: In the interest of orderly development.

3. Prior to commencement of development, the following shall be agreed in writing with the planning authority:

- (a) The details and specifications of all proposed material finishes relating to the outbuildings.
- (b) A revised finish replacing the standing seam metal finish, at the first floor extension, Drawing AI 2558 II (received by the planning authority on the 16th day of August, 2023) to a finish more in keeping with the main structure.

All works on site shall be supervised by a suitably qualified RIAI Conservation Architect Grade 2 or higher.

Reason: In the interest of architectural conservation.

4. The ownership of the first-floor residential unit and the public house at ground floor shall not be separated by sale.

Reason: In the interest of protecting the residential amenity of the property.

5. (a) No music or reinforced speaker system shall be permitted in the courtyard area and smoking area of the development.
- (b) The developer shall implement all Mitigation Advice Measures and Recommendations outlined in Section 6 of the Noise Impact Assessment Report submitted to the planning authority on the 16th day of August, 2023.

Reason: In the interest of clarity and to avoid noise nuisance.

6. (a) During the operational phase of the development, the noise level arising from the development, as measured at the nearest noise sensitive location, shall not exceed:
- (i) An Leq, one-hour value of 55 dB(A) during the period 0800 to 1800 hours from Mondays to Saturdays, inclusive.
- (ii) An Leq, 15-minute value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

- (b) All sound measurements shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.

- (c) A detailed Noise Study with recommendations, shall be carried out by a competent noise/environment consultant within three months of the development being in full operation and at any other time as may be specified by the planning authority. The Noise Study shall be submitted to the planning authority.

Reason: To protect the amenities of property in the vicinity of the site.

7. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall:
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operations (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the planning authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter(s) shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

8. 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.

9. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann.

Reason: In the interest of public health.

10. (a) Adequately sized and sited fats, oils and grease interceptors shall be installed on all commercial kitchens waste drainage lines in a manner which is satisfactory to the planning authority and these shall be cleaned on a regular basis.
- (b) All grease traps installed shall conform to the Irish Standard EN 1825 Grease Separators – Part 1 (Principles of Design, Performance, Testing, Marketing and Quality Control) and Part II (Selection of Normal Size, Installation, Operation and Maintenance) published by the National Standards Authority of Ireland.
- (c) Grease traps that use an additive (e.g. chemical enzymes etc) to dissolve the grease shall not be acceptable.
- (d) The use of food macerators on the kitchen waste drainage lines(s) shall not be permitted.

Reason: In the interest of public health and to avoid pollution.

11. Prior to commencement of development, 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) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. 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 reducing waste and encouraging recycling.

12. The construction of the proposed 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 proposed development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

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.



Mary Henchy

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

Dated this 26th day of July 2024.