

Planning and Development Acts 2000 to 2022

Planning Authority: Cork City Council

Planning Register Reference Number: 2443105

Appeal by Harry O'Mahony of 7 Clashduv Estate, Glasheen Road, Cork City, and by Flannery's Bar Glasheen Limited care of Butler O'Neill Total Planning Solutions of Old Thompson's Bakery, Thompson House, MacCurtain Street, Cork City against the decision made on the 10th day of September 2024 by Cork City Council to refuse permission for development comprising retention permission for the retention of the construction of a covered outdoor seating area comprising 83.33 square metres to the side and rear of the existing Flannerys Bar Glasheen, retention for the construction of ground floor entrance and ground floor and first floor toilets and laundry room. Retention permission is also sought for a retractable canopy/roof in the existing beer garden, a storage container as well as provision of a number of small structures for storing glass, refuse, fuel etc. Planning permission is also sought for the rationalisation of on-site activities and operations and all associated site development works, at Flannerys Public House, 15/16 Glasheen Road, Cork, in accordance with the plans and particulars lodged with the said Council.

Decision

GRANT permission for the retention of (i) the outdoor covered seating area (83.33 square metres) to the side and rear of the existing bar, (ii) the ground

floor entrance and toilet area and toilet area at first floor level to the west of the main bar fronting onto the Glasheen Road, (iii) the toilet and laundry room at first floor level to the rear of the bar along the eastern boundary of the site 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 the external storage areas and the retractable canopy area based on the reasons and considerations marked (2) under.

Reasons and Considerations (1)

It is considered that the proposed development for which the retention of planning permission is sought, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area in terms of excessive noise and disturbance, would not be out of character with the main bar on site, would not be prejudicial to public health and would generally be acceptable in term of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Planning Inspectors recommendation to refuse retention of permission for the above developments, the Board considered that the retention of an outdoor seating area was acceptable having regard to the long-established use of the public house in this residential area. It was further considered that with the implementation of the appropriate conditions regarding noise containment that the proposed development would not significantly affect the residential amenity of the residents in the area. It was noted that the outdoor seating area for which retention of planning permission is granted incorporates greater separation distances to the nearest residential dwellings than the retractable canopy area and various other structures proposed to be retained, and therefore is less likely to give rise to significant noise generation.

Conditions

1. 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 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. During the operational phase of the proposed development the noise level shall not exceed
 - (a) 55 dB(A) rated sound level between the hours of 0700 to 2300, and
 - (b) 45 dB(A) 15min and 60 dB LAfmax, 15 minutes at all other times, (corrected for a tonal or impulsive component) as measured at the nearest dwelling.

Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

3. (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 2200 hours and by more than 1 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 15 minutes and the specific noise shall be measured at LAeq.T 5 minutes.
- (b) Between the hours of 2200 and 0600 the octave band centre frequencies of noise emissions at 63 32 Hz and at 125 Hz measured using the LZeq, 5-minute metric shall not exceed the equivalent representative L90 Octave Band levels and 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 15-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 within one month of the date of this order. An acoustical analysis shall be included with this submission to the planning authority. The agreed sound proofing shall be installed before the commencement of development.

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.

4. The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: To prevent flooding and in the interests of sustainable drainage.

5. Prior to commencement of development, the developer shall enter into a water and wastewater connection agreement with Uisce Éireann.

Reason: In the interest of public health.

6. Details regarding the storage of kegs, crates, empty bottles, skips and other trade materials shall be submitted to the planning authority, for written agreement, prior to the commencement of development.

Reason: In the interest of orderly development and residential amenity.

7. 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.

Thereafter, the agreed waste facilities shall be maintained and 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 and the amenities of properties in the vicinity.

8. Details of the proposed external finishes for the covered seating area to be retained shall be agreed in writing with the planning authority within one month of the date of this order, or in default of agreement shall be determined by An Bord Pleanála. External finishes shall, where necessary, include measure to contain noise propagation from the seating area so as to comply with conditions 2 and 3 above.

Reason: In the interest of protecting residential amenity.

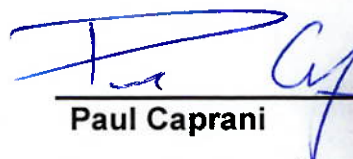
9. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the 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)

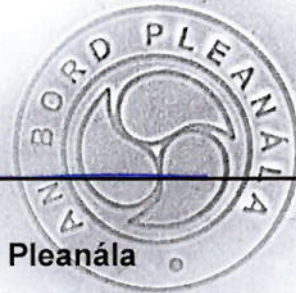
1. By reason of the materials used including corrugated metal sheeting, and the general layout of substandard metal sheeting storage units, it is considered that the retention development would be visually unsatisfactory, haphazard, and inappropriate in the context of its location which is visible from the Glasheen Road. The retention development would adversely impact on the visual amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The storage areas and retractable canopy area to the rear of the site, adjacent to the eastern boundary, are in close proximity to the surrounding residential dwellings and it is considered that the of these elements of the development for which retention of planning permission is being sought, will give rise to excessive noise which will adversely impact on the residential amenity of residents in the immediate vicinity and would therefore be contrary to the proper planning and sustainable development of the area.



Paul Caprani

Member of An Bord Pleanála

duly authorised to authenticate
the seal of the Board.



Dated this 30th day of January 2025.