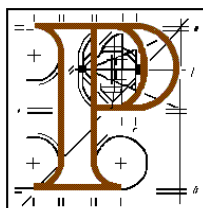


An Bord Pleanála



Inspector's Report

Appeal Reference No: 01.245550

Development: Planning permission for minor modifications to the front and rear elevations incorporating new and replacement signage and fenestration alterations to provide for new doors onto Tullow Street. Permission is also sought for works to the existing external terrace at first floor level to incorporate c.59m² of existing terrace area into the pub building with pitched glazed roof over; resulting in an external terrace of c. 144m² with partial glazed roof over at existing licensed premises at 7 Tullow Street, Carlow.

Planning Application

Planning Authority:	Carlow Co. Co.
Planning Authority Reg. Ref.:	15/197
Applicant:	JD Wetherspoon PLC.
Planning Authority Decision:	Grant Permission

Planning Appeal

Appellant(s):	1. JD Wetherspoon PLC. 2. Chris Leonard
Type of Appeal:	1. First Party appeal against condition 2. Third Party

Observers: None

Date of Site Inspection: 22nd December 2015 and 18th January 2016

Inspector: Emer Doyle

1.0 SITE LOCATION AND DESCRIPTION

The appeal site comprises a former public house, 'The Traders' located in the town centre area of Carlow. The site which has a stated area of 0.0478 hectares is occupied by a three storey with basement public house. The building is currently vacant.

The site is located within an area which is mixed use in character and the site has frontage on Tullow Street to the front and Bridewell Lane to the rear. Adjoining uses include Shaws Department Store to the east and MACS Menswear to the west. Tullow Street is pedestrianised at this location. The uses on Tullow Street are typical of town centre locations and include retail stores, hairdressers, travel agents, bank etc.

A set of photographs of the site and its environs taken during the course of the site inspection is attached.

2.0 PROPOSED DEVELOPMENT

The development comprises of the following:

- Modification of the front elevation including the addition of new entrance doors.
- Provision of new and replacement signage.
- Modifications to existing terrace at 1st floor level.

A planning report including appropriate assessment screening and a Noise Management Plan were submitted with the application.

3.0 PLANNING HISTORY

No recent history.

4.0 PLANNING AUTHORITY DECISION

4.1 TECHNICAL REPORTS

Planning Report

The planners' report stated that the proposed development was located in the centre/core of Carlow Town and the uses were established at this location. It was considered that bringing back a

vacant building with external and internal improvements would add to the aesthetics of the core town centre street and streetscape.

Environment Section

No objection.

Environmental Health Officer

No objection subject to conditions.

Roads Section

No objection.

Area Engineer

No objection.

Fire Officer

No objection subject to conditions.

Irish Water

No objection subject to conditions.

4.2 Planning Authority Decision

The Planning Authority granted permission subject to 25 No. conditions.

Condition 2 required that before development commences the applicants shall submit full details and specifications of all the proposed works to elevations including the two number shop fronts - Tullow Street and Bridewell Lane - to the Planning authority for formal written agreement. These details shall include the following:

- a. Full details of materials to be used.

- b. Full details of lighting proposals.
- c. No internal lighting shall be permitted.
- d. Full details and specifications of colour(s) to be used.
- e. Full details, specifications colour(s) and lighting proposals of signage/ advertising structures to be used.

Condition 5 required that before development commences the applicants shall submit full details, drawings and specifications including materials to be used and colour(s) of the following for the formal written agreement of the Planning Authority:

- a. The proposed pitched glazed roof over and associated glazing opening doors onto the terraced area at first floor level.
- b. The proposed glazed flat roof partially covering terrace area at first floor level.

Condition 6 required a landscaping scheme for the first floor level.

Condition Nos. 16-19 related to Section 48 development contributions.

All other conditions are of a standard nature.

5.0 GROUNDS OF APPEAL

A first party appeal against the Council's decision was submitted on behalf of JD Wetherspoon PLC. The grounds of appeal and main points raised in the submission can be summarised as follows:

- Appeal against Development Contribution in accordance with Section 48(10) of the Planning and Development Act 2000 as amended.
- The Planning Authority calculation for development contributions was based on a figure of 203m². This figure is incorrect and should be 144m².
- It is proposed to incorporate 59m² of an existing terrace into the building envelope and this figure should therefore be excluded from the calculations.

A third party appeal against the Council's decision was submitted by Chris Leonard. The grounds of appeal and main points raised in the submission can be summarised as follows:

- The proposed development would result in an addition of 203m² of additional floor space which will result in increased car parking demand which cannot be met locally.
- The Council have sold off car parking spaces in the town to private developers and have not replaced spaces.
- Lack of details in relation to shopfront, signage and lighting.

6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL

6.1 Planning Authority Response

None.

First Party Response

- The permitted development is a long established use at this location. There is a shortfall of 3 spaces based on our calculation of 144m² which is not considered to be significant and will not have a major impact on car parking in the town.
- The combination of conditions 1 and 2 will ensure that the development will be carried out to the required standards and have a positive effect on the aesthetics of the core town centre street and streetscape.

6.2 Observations

None.

7.0 POLICY CONTEXT

The current development plan is the Carlow Town Development Plan 2012-2018 which is incorporated into the Joint Spatial Plan for the Greater Carlow Graiguecullen Urban Area 2012-2018.

The site is zoned as 'town centre'.

Section 10 refers to Urban Design and Built Form and includes sections in relation to shopfronts, shopfront advertisement policies, smoking shelters and beer gardens, nightclubs and public houses.

ASSESSMENT

Having examined the file and having visited the site I consider that the main issues in this case relate to:

1. Principle of Proposed Development
2. Development Contributions
3. Car parking
4. Visual Amenity
5. Appropriate Assessment

PRINCIPLE OF PROPOSED DEVELOPMENT

The subject site is located on one of the main commercial streets in Carlow town in an area that is zoned as 'town centre' in the current Carlow Town Plan 2012-2018. The purpose/ objective of this zoning is to protect and enhance the vitality and vibrancy of the town centre and to provide for and improve retailing, residential, commercial, office, cultural, tourism, public facilities, amenity and other uses appropriate to the centre of a developing urban core. It is a policy under CT P5 to encourage the provision of a wide range of shopping, commercial, community, civic, tourism, amenity and transport services within Carlow Town Centre.

The premises has been used as a licenced premises for many years and has been vacant for a short time only. Having regard to the site history, the established use of the site, and the town centre zoning, I consider that the proposed development would be acceptable in principle, subject to all other relevant planning considerations being satisfactorily addressed.

Development Contributions

A first party appeal against Condition Nos. 16, 17, 18, and 19 has been submitted to the Board. These conditions relate to Section 48 Development Contributions which have been levied by the Council. The applicant does not dispute the application of the conditions but states that the total amount has been incorrectly calculated.

Essentially, the Planning Authority have levied for an area based on a floor area of 203m² and the applicant states that this area is incorrect and should be corrected to 144m².

The case is made on behalf of the applicant in the first party appeal that there is an existing terrace at first floor level. It is estimated by the applicants that this extends to 100m². It is proposed to incorporate c.59m² of the existing terrace space into the building envelope. An area of 144m² which was not in customer use to date will be upgraded and become an extended beer garden at first floor level. According to the applicants' submission, this is the area which is 'new development' and may be levied appropriately.

On my site inspection, I noted that there is an existing terrace at first floor level, the area of which is in accordance with the drawings of the existing first floor submitted to the Planning Authority dated the 10th of July 2015. This area has wooden decking and a wooden and iron structure which is roofless at present. I note that the drawings show that part of the area is sheltered but there was no sheltered area on the ground during my site inspection. There are photographs on file which indicate that part of the structure previously had a roof.

It is proposed to upgrade the quality of this space through the removal of the existing structure and the incorporation of c.59m² of the existing terrace into the building envelope. I would estimate that this area has been in use for approximately 10-15 years. There is no evidence either from the planning report, my own history search of the Carlow County Council website or the applicant's submission that this area has planning permission, or that a previous development contribution was paid and the Planning Authority are now 'double charging' the applicant. The applicant applied for an area of 203m² in total which was made up of 59m² of existing terrace to be incorporated into the existing pub and 144m² of new terrace. These areas are clearly marked on the planning application as being distinct from works to be carried out as exempted development as they are coloured in red and are not hatched. I also note that the applicant has paid the appropriate fee for 203m² in total based on a calculation of 59m² for the incorporation of the existing terrace into the pub building and an external terrace with partial glazed roof of 144m².

The Carlow County Council Development Contribution Scheme states that *'at developments which include upgrading, rebuilding or change of use of premises the net difference will be between the rate for current and proposed uses, if any related to floor area of current development.'*

From the information available to me, I consider that the existing terrace does not have the benefit of planning permission and the applicant's have applied for permission to incorporate c.59m² of the

existing terrace into the pub area and for an external terrace of c. 144m². I therefore consider that the terms of the development contribution scheme have been properly applied and the correct figure to which development contributions applies is 203m².

Having regard to the foregoing I recommend that the Board find that the development area is 203m² and that the figure payable in accordance with the Carlow County Council Development Contribution Scheme updated in accordance with the House Building Cost Index available at 01/01/2016 is €39,551 (rounded down). This figure includes a car parking shortfall of 5 No. spaces at a contribution of €6,926.50 per space and a contribution for 203m² of commercial development at a combined total for roads, community/ recreational/ parks/ leisure and ancillary at €24.23 per m².

Car Parking

The third party appeal notes that the applicant cannot provide any car parking on site having regard to the 100% site coverage and the Council have no plans to provide any additional car parking in the area.

The standards set out in the current Development Plan require 5 additional spaces based on a total area of 203m² and a requirement of 1 space per 40m².

Having regard to the town centre zoning, the availability of on street parking in the area, the established use of the premises as a pub, and the limited scale of the proposed development, I consider that the development would not give rise to significant additional car parking. I also note that the pub is likely to be busy towards the evening and night time when there would be less demand for other town centre uses. As such, I consider that it is reasonable for the developer to pay a development contribution towards upgrading car parking in the area.

Visual Amenity

The third party appeal notes that there is a lack of details in relation to shopfronts signage and lighting and considers that in the absence of these details, it is considered that the planning authority should not have made the decision to grant permission.

The first party response considers that the combination of conditions 1 and 2 will ensure that the development of this building will be carried out to the required standard and will have a positive affect on the aesthetics of the core town centre street and streetscape. It is also stated that the developer has an established track record of providing high quality signage and shopfront schemes.

Condition 1 is a standard condition which requires the development to be carried out in accordance with the plans submitted.

Condition 2 is as follows:

Before development commences the applicants shall submit full details and specifications of all the proposed works to elevations including the two number shop fronts - Tullow Street and Bridewell Lane - to the Planning Authority for formal written agreement. These details shall include the following:

- a. Full details of materials to be used.
- b. Full details of all lighting proposals.
- c. No internal lighting shall be permitted.
- d. Full details and specifications of colour(s) to be used.
- e. Full details, specifications colour(s) and lighting proposals of signage/ advertising structures to be used.

Reason: In the interests of visual amenity and in the interests of the proper planning and sustainable development of the area.

Works to the front elevation provide for an additional door and replica pillars either side of the door. All existing decorative details will be retained and repainted. It is proposed to add a new pub name to the front fascia board replacing the existing 'The Traders' signage to the front elevation. The vertical emphasis of the existing glazing will be maintained.

Works to the rear elevation onto Bridewell Lane provide for the upgrading of the appearance of the elevation and the painting of the pub name onto the existing brickwork.

I consider that the changes to the front elevation are minimal and have no objection to such details being agreed with the Planning Authority prior to commencement of development. It is a policy of the Development Plan under DBF P22 to require a high quality of design for new and replacement shopfronts. As a general rule, subtle and simple schemes work best according to the Development Plan. I consider that the proposed painting of the pub name directly

onto the existing brickwork to the rear would be out of contrast with existing signage on Bridewell Lane to the rear of the premises and add to visual clutter in the area and would not provide for an attractive contribution to the streetscape. I would have no objection to the painting of the pub name on the existing fascia advertisement board at this location. Subject to this amendment and the details being agreed with the Planning Authority prior to commencement of development, I am satisfied that the proposed signage and modifications would be acceptable and would not detract from the visual amenities of the area.

Appropriate Assessment

The development was screened for Appropriate Assessment and is located approximately 0.5km from the River Barrow and Rive Nore Special Area of Conservation. The site is located in a built up urban area where there is an existing public house and associated services in place. Having regard to the minor scale of the development, I conclude that no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

Recommendation

I have read the submissions on file, visited the site, and had due regard to the provisions of the Development Plan and all other matters arising. In the light of this and the assessment above, I recommend that permission be granted for this development for the reasons and considerations set out below.

Reasons and Considerations

Having regard to the provisions of the current Carlow Town Development Plan 2012-2018 contained within The Joint Spatial Plan for the Greater Carlow Graiguecullen Urban Area 2012-2018, the land use zoning for the area, and the established use on the site, it is considered that subject to compliance with the conditions below, the proposed development would not adversely impact on the residential or visual amenities of the area. 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, 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 commencement of development, revised elevation drawings shall be submitted for the written agreement of the planning authority as follows –
 - (a) The proposed painting of the pub name directly onto the existing brick of the rear elevation shall be omitted and the pub name shall be painted onto the existing fascia signage at this location.

Reason: In the interest of visual amenity.

3. Prior to commencement of development, the developer shall submit full details, drawings and specifications including materials to be used and colour(s) of the following for the written agreement of the Planning Authority:
 - (a) The proposed pitched glazed roof over and associated glazing opening doors onto the terraced area at first floor level.
 - (b) The proposed glazed flat roof partially covering the terrace area at first floor level.
 - (c) All external signage and lighting.

Reason: In the interest of visual amenity.

4. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners,

canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

5. The mitigation measures detailed in the Noise Management Plan submitted to the Planning Authority on 10th day of July 2015 shall be implemented to minimise the noise impact from the proposed development.

Reason: In the interest of public health.

6. Site development and building works shall be carried out only between the hours of 08.00-19.00 (Monday to Friday) inclusive, 08.00-16.00 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 amenities of property in the vicinity.

7. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interests of sustainable waste management.

8. Drainage arrangements, including the 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. The developer shall pay to the planning authority a financial contribution of €39,551 (Thirty nine thousand five hundred and fifty one euro) 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Emer Doyle
Planning Inspector
20th January 2016