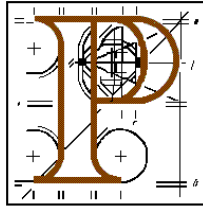


An Bord Pleanála



Inspector's Report

Appeal Reference No: PL27.245625

Development: Retention permission for external seating area of 108m² including surface, planting and perimeter in front of Beach House, Victoria Road, Greystones which is a protected structure No. 08/51.

Planning Application

Planning Authority: Wicklow Co. Co.
Planning Authority Reg. Ref.: 15/795
Applicant: E. Byrne and Sons Ltd.
Planning Authority Decision: Refuse Permission

Planning Appeal

Appellant(s): E. Byrne and Sons Ltd.
Type of Appeal: First Party
Observers: None
Date of Site Inspection: 6th January 2016

Inspector: Emer Doyle

1.0 SITE LOCATION AND DESCRIPTION

The appeal site comprises of lands to the front of a public house 'The Beach House', located on Victoria Road, Greystones, Co. Wicklow. The site is opposite a major development site, Greystones Harbour, which is under construction at present.

The Beach House is a protected structure and the site is within the Greystones Harbour Architectural Conservation Area.

The site is currently used as an outdoor seating area for the public house and has been surfaced with a combination of an astro turf type finish and stone paving. The boundary walls around the paved seating area consist of a mix of upright timber posts at staggered heights and planting areas with a natural stone finish.

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 retention of the following:

- External seating area of 108m² with stone pathway, ramps and soft astro turf type finish within seating area.
- Enclosure of seating area with natural stone walls and timber posts with some rope attached to the timber posts.

A 'Report and Conservation Report' was submitted with the application.

2.0 PLANNING HISTORY

PA 86/ 2202

Permission granted for retention of bay window and new windows.

PA 87/ 2807

Permission granted for erection of conservatory.

PA 90/6450

Permission granted for alterations to front elevations, 2 extensions to rear, extension to side and change of use from residential to restaurant on 1st floor and provision of new car park.

PA 96/4146

Permission granted for retention of porch and extension.

PA 00/2235

Permission granted for extension to kitchen area.

In addition, there was a recent referral case as follows:

PA 37/15 / 27.RL.3371

The Board determined that the alteration of the ground surface within an established seating area in front of the Beach House, from brick setts to natural limestone stone and external carpeted seating area in front of the Beach House of planted natural stone low walls and treated timber posts, in place of the previous planter seat and timber latticed railings at the Beach House (a protected structure) is development and is not exempted development.

4.0 PLANNING AUTHORITY DECISION

4.1 TECHNICAL REPORTS

Planning Report

The planners' report considered that the applicant had failed to demonstrate that they had sufficient legal interest in these lands to seek retention of these works. It was also considered that the development being sought for retention was not appropriate and not consistent with the character, policies or materials for the Architectural Conservation Area.

Roads Section

No objection.

Area Engineer

Report states that previous grant of permission under 90/6450 condition No. 2 required a 1800mm footpath which is contrary to Drawing No. B-116-02-PL. It outlines issues in relation to ownership of lands and recommends refusal.

4.2 Planning Authority Decision

The Planning Authority refused permission for two reasons as follows:

1. The proposed development is located within the Harbour Architectural Conservation Area. The Wicklow County Development Plan and Greystones- Delgany and Kilcoole Local Area Plan 2013-2019 set out policies and objectives for development within Architectural Conservation Areas (ACA), in particular the stated objectives provide that
 - The buildings, spaces, archaeological sites, trees, views and other aspects of the environment that form an essential part of the character of an ACA will be protected.
 - Development will be controlled in order to protect, safeguard and enhance the special character and environmental quality of ACAs.
 - The character and appearance of the urban public domain within an ACA should be protected and enhanced.

The proposed development which seeks to retain works which have been carried out on the public road/ public realm to the front of The Beach House (a protected structure) and which are not, due to their design and materials of construction etc. considered to be consistent with the Character of the ACA and would if permitted fundamentally alter the streetscape and appearance of the ACA.

2. Having regard to the failure of the applicants to demonstrate that they have sufficient legal interest over the lands to seek retention for the works carried out thereon and the position of the Planning Authority that these lands form part of the public road/ public realm, it is considered that to permit this development would be contrary to the proper planning and sustainable development.

5.0 GROUNDS OF APPEAL

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

- The lands in question have been occupied by the applicants since 1963 and the Local Authority has no basis for any legal claim to same.
- The applicant's have submitted the matter to the Land Registry and await their formal decision, but notwithstanding this, they are in possession of the lands for over 52 years and are therefore the owners.
- An application has been made to Wicklow County Council to remove the building from the list of protected structures.
- The area does not warrant an ACA designation as its views, its seaside beach, and ambience have all been replaced by a concrete monstrosity, six years of hoardings, mostly deserted building sites, and now with rough temporary car parks.
- It is requested that the Board seek from Wicklow County Council copies of all the Planning Files on the case, and in particular that Wicklow County Council produce a copy of 8326/82 which we have been unable to access.
- The footpath width is 1800mm along the entire boundary.
- It is suggested that works could be carried out such as cutting the timber posts to be of similar height, removing the ropes and/ or painting the natural stone white or plastering same in order to preserve the character of the ACA.

6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL

6.1 Planning Authority Response

This response can be summarised as follows:

- The appeal focuses on the 'land ownership' matter. However land ownership in itself does not give one the right to control land.
- It would appear that the appellant's agent wants the Board to use the planning application as a way of removing certain designations that were put in place through a statutory development plan process, however it goes without saying

that the designations in the plans cannot be removed through a planning application process.

6.2 Observations

None.

7.0 POLICY CONTEXT

Architectural Heritage Protection Guidelines for Planning Authorities – Guidelines for Planning Authorities 2004

- Section 3.10 sets out criteria for assessing proposals within an Architectural Conservation Area.
- Section 3.10.4 states that proposals for retention permission in and ACA should be considered as any other application.

Wicklow County Council Development Plan 2013-2019

- Section 14.6.1 deals with Protected Structures.
- Section 14.6.2 deals with Architectural Conservation Areas.

Greystones-Delgany and Kilcoole Local Area Plan 2013-2019.

- The site is within a designated ACA- Greystones Harbour.
- Section 9 deals with Natural and Built Heritage.
- Section 3 of Appendix B relates to Architectural Conservation Areas.
- Section 3.6 of Appendix 3.6 relates specifically to Greystones Harbour ACA. There are 24 Protected Structures in this ACA including 'The Beach House' – 08-51.

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. Impact on Architectural Conservation Area.
3. Other Matters.

PRINCIPLE OF PROPOSED DEVELOPMENT

The subject site is located in an area that is zoned as 'town centre' in the current Greystones- Delgany and Kilcoole Local Area Plan 2013-2019. The purpose/ objective of the zoning is 'to protect, provide for and improve the development of a mix of town centre uses including retail, commercial, office and civic use, and to provide for 'Living Over the Shop' residential accommodation, or other ancillary residential accommodation. To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and promote urban design concepts and linkages between town centre activity areas.'

The Beach House has been in use as a public house for many years and the external seating area is ancillary to the existing use in my view. Having regard to the site history, the established use of the site, and the town centre zoning, I consider that the retention of the existing development would be acceptable in principle, subject to all other relevant planning considerations being satisfactorily addressed.

Impact on Conservation

The principle issue in this appeal in my view relates to the impact of the seating area and the boundary treatment surrounding it on the Architectural Conservation Area. The Beach House is a protected structure located within Greystones Harbour ACA. It is not included in the National Inventory of Architectural Heritage.

This area is characterised by its seaside location and a predominance of well preserved 19th century buildings. The range and quality of buildings in this area is quite exceptional and reflects a high quality of architectural heritage. There are 24 Protected Structures in total in this area. The Conservation Report submitted with the application and the appeal make the case that The Beach

House is not of sufficient character to warrant its inclusion in the Protected Structures list. It is stated that Beach House is a pastiche building, which has never been re-evaluated as required, with fake shop fronts and fake pub attached, a fake wing gutted out internally and if it deserves to be a Protected Structure, every 19th century building in the country should be so designated. There have been many permissions to alter or extend the building over the years. The principal feature noted by the Local Authority is its so called 'Shop Front' which in fact dates from 1992. A letter included in the Conservation Report and appeal indicate that the applicant has written to the Planning Authority requesting that the building is removed from the Record of Protected Structures.

Notwithstanding the arguments put forward in the Conservation Report and appeal, the Board has no role regarding the deletion of a building from the Record of the Planning Authority.

I am of the view that the seating area is located on a prominent site and the area is of high amenity value in terms of the proximity to the harbour and the quality and range of buildings in the ACA.

It is an objective of the Development Plan under HER12 'To preserve the character of ACAs in accordance with Appendix B. Development will be controlled in order to protect, safeguard and enhance the special character and environment quality of ACA's.' Section 3.6 of Appendix B deals with Greystones Harbour ACA. This ACA is characterised by its seaside location and a predominance of two storey semi-detached and terraced houses with rendered finishes. Section 3.8 requires that the materials used should be appropriate to the character of the area.

I consider that the natural stone finish to the planters is out of character with existing boundary treatment and external wall finishes in this ACA which is characterised by a rendered finish. Whilst the natural stone finish is of a high quality and attractive in itself, when considered in the context of the ACA and the absence of this type of finish in the area, I am of the view that this material would detract from the ACA. As such, I am of the view that the retention of the natural stone finish would have a negative impact on the existing protected structure at this location and would contribute to the erosion of the attractive and distinctive qualities of the ACA. However, I would have no objection to same if it was rendered and painted a similar colour to the existing public house at this location. I am satisfied that provided the natural stone walls are rendered and painted a similar colour to the existing public house, the retention of the outdoor seating area would be acceptable in the ACA and would not detract from the character of the ACA.

Other Matters

The second reason for refusal states that the applicants do not have sufficient legal interest over the lands. The appeal response states that the applicant has been in possession of the lands since 1963 and includes an application to the Property Registry Authority to acquire the property by way of adverse possession. Section 34(13) of Planning and Development Act 2000 states the following: 'A person shall not be entitled solely by reason of a permission under this section to carry out any development.' As such, this dispute between the Council and the applicant is not a matter for the Board to adjudicate on.

Appropriate Assessment

Having regard to the nature and scale of the development to be retained and proximity to the nearest Natura 2000 site, I am satisfied that the development either individually or in combination with other plans and projects would not be likely to have a significant effect on any designated Natura 2000 site and should not be subject to appropriate assessment.

10.0 RECOMMENDATION

Reasons and Considerations

Having regard to pattern of development in the area, the planning history of the site, and the scale, design and use of the outdoor seating area, it is considered that, subject to compliance with the conditions set out below, the development proposed to be retained would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area and would be acceptable in terms of traffic safety and convenience. The development to be retained would, therefore, be in accordance with the proper planning and sustainable development of the area.

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.

Reason: In the interest of clarity.

2. Within three months of the date of this order, the entire natural stone finish on the planters shall be rendered and painted in the same colour as the existing public house.

Reason: In the interests of visual amenity and in order to protect the character of the Architectural Conservation Area.

Emer Doyle

25th January, 2016.