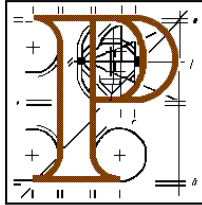


## An Bord Pleanála



## Inspector's Report

**Development:** Change of Use of Unoccupied Building To Function Room and Extension at Building (Protected Structure), Salmon Leap Inn, Cooldrinash, Leixlip, Co. Dublin

### Planning Application

Planning Authority:	South Dublin County Council
Planning Authority Reg.	SD15A/0258
Applicant:	Maryphad Limited
Type of Application:	Permission
Planning Authority Decision:	Grant Permission with Conditions

### Planning Appeal

Appellant(s):	Dermot Daniels
Type of Appeal:	Third Party Vs Decision
Observers:	None

**Date of Site Inspection:** 03/05/2016

## **1.0 SITE LOCATION AND DESCRIPTION**

- 1.1 The site is located on the southern side of Leixlip Bridge, close to Kildare County Council boundary.
- 1.2 The site is linear in shape, and includes the The Salmon Leap Inn, a Protected Structure (Ref. 009), and associated parking to the side and the rear. There is also a detached building on the site which this appeal relates to. The building backs onto the main Dublin Road, whereas the Salmon Leap Inn fronts onto the Dublin Road.
- 1.3 There are containers or somewhat temporary extensions each side of the existing building where the proposed development is planned.

## **2.0 PROPOSED DEVELOPMENT**

- 2.1 The Change of Use of an existing unused single storey building (98sq.m.) within the curtilage of a protected structure to a function room. The proposal also includes the construction of two side extensions to the existing building comprising of 50sq.m. The extensions are to accommodate a kitchen on the western end and toilet facilities on the eastern end.

## **3.0 SUBMISSIONS RECIEVED**

The third party objections raised the following concerns:

- Same application as SD15A/0199 which was rejected as invalid.
- Emergency door is ambiguous
- The building is occupied, in an unauthorised way
- What type of functions are to be held within the building
- The use could impact on the carparking requirements
- The Toll House is a 100metre opposite the subject site, and it is nearly 300 years old
- There was a garden party within the carpark last summer and the noise was so intrusive it impacted negatively on this house and gardens
- A succession of unauthorised developments
- The sewage treatment is via a septic tank
- There is flooding in the area due to excessive surface water, and the applicant has installed an authorised sewer
- There has been legal proceedings associated with the property and warning letters
- Traffic hazard

- There will be a material impact on the protected structure

A submission from An Taisce stating the proposal should be compatible with the protected structure.

A submission from ESB regarding the adjoining hydro electrical plant to request a condition is attached that ensures no parking will occur on the ESB entrance road to Leixlip Generating station.

#### 4.0 TECHNICAL REPORTS

*EHO:* No Objection and conditions additional information required regarding background noise, ventilation system

*Water Services:* No objections

*Irish Water:* No objections

*Planning Report:*

Following the first planning report **Additional information** was requested on 20<sup>th</sup> of October 2015.

1. The use of the function room, the frequency of use, entertainment and serving food
2. The impact of noise is a concern an acoustic background survey needs to be carried out, noise mitigation measures
3. Carparking schedule
4. The planning status of the steel container structures
5. A revised window design

A full response was received on 25<sup>th</sup> of November 2015.

*Roads Department*

No internal layout of the actual pub as there may be a residential use unaccounted for in the carparking requirements.

Conservation officer's report is mentioned on the appeal file, but there does not appear to be a copy of it on file.

#### 5.0 PLANNING AUTHORITY'S DECISION

South Dublin Co.Co. granted planning for the development subject to 8No. conditions. Most of the planning conditions are standard, there are a number of site specific ones.

2. The development shall operate between 12noon and 11pm.
3. Revised window design
8. Financial contribution of €8497.44

## 6.0 APPEAL GROUNDS

A summary of the third party, brought by Hughes Planning and Development Consultants on behalf of Dermot Daniels, 10 Weston Drive, Lucan, grounds of appeal is as follows:

### 6.1 Validity of the Planning Application

There are a number of unauthorised works associated with the subject site which do not form part of the planning application. There appears to be a new roof and internal repairs were carried out, the Board is asked to investigate this matter. There is no record of these works. The application is inconsistent with Section 32 of the Planning and Development Act 2000.

### 6.2 Refusal of Planning Permission for past failure to comply

A review of planning history would suggest a significant breach of planning history.

SD14A/0174 Retention permission for a single storey extension to side and rear of public house

15A/0114 Retention refused for existing emergency exit gate in boundary wall providing egress from carpark

15A/-119 Current application

Unauthorised works are carried out regularly on the site. Under the Development Management Guidelines new developments should be refused if there are continuous unauthorised development issues on site.

The site has been the subject of planning enforcement for refurbishment works to the structure, and the construction of a wall and steps without planning permission. There are significant works carried out to boundary wall associated with current proposal. The Board is strongly urged to review the history of non-compliance with planning legislation and to exercise its discretion under Section 35 of the Planning Act.

### 6.3 Non-compliance with Zoning Objective

The site is zoned *I- to protect and enhance the outstanding character and amenity of the Liffey Valley and preserve its strategic importance as a green break between urban and settlement areas.*

Under this zoning Dancehall and Discotheques, Recreational buildings are Not Permitted in principle, and Public Houses are Open to Consideration.

The proposal is inconsistent with the zoning objective.

Images presented on appeal illustrate a 30<sup>th</sup> birthday party on the subject site on 8<sup>th</sup> of January 2016. The development is clearly operating under a no permitted use within the zoning objective. The applicant is in breach of the development plan, and Condition No. 4 of the planning permission.

The applicant may argue the proposed use is consistent with public house use on the site. The definition of a public house under Schedule 3 of the development plan is '*A building or part thereof or licenced for the sale of intoxicating liquor to the public for consumption on the premises.* A copy of the Public Licence agreement shows the subject building is not licenced to sell or consume alcohol.

#### 6.4 **Impact on Character and Special Interest of a Protected Structure**

Salmon Leap building is a Protected Structure. The proposed development will seriously detract from the character and appearance of the building and will have a detrimental impact to the special interest of the Protected Structure.

The scale and design, will cause an imbalance and be unsympathetic to the character and appearance of the building within is located within the curtilage of a protected structure, and contrary to Policy AA11 of the county development plan and the provisions of the Architectural Heritage Protection Guidelines for Planning Authorities. The proposal contravenes development plan objectives as it is unjustified and inconsistent and should not have been granted planning permission.

### 7.0 **RESPONSES**

7.1 The planning authority confirms its decision and has no further comment.

#### 7.2 The Applicant's Response to the Appeal

The fifteen page dossier of 'alleged facts' are not relevant to the proper planning and development of the subject site.

The Conservation Officer's Report states the design and scale of the proposed development is acceptable.

The intended uses of the structure have been outlined by the applicant, and conditioned by the planning authority.

The Noise report submitted as part of the planning application demonstrates the proposal will not have a significant negative impact on the acoustic comfort of residents in the vicinity.

Direct response to items raised in the appeal:

- The proposed use of the building is a function room and this has been clearly stated throughout the application. Details of functions and opening hours have also been clearly stated.
- The restoration and use of the derelict building will enhance the historic area.
- The disused building will be brought back to life which will lead to its preservation longterm

- The function room is separate from the public house. They are approximately 12metres apart, the change of use will not impact on the protected structure
- The structure is not going to be used as a dance hall or discotheque.
- The use of the site as a public house has existed for over a hundred years and is permitted under the provisions of the zoning objective.
- The objector has submitted false and misleading information, and it would bring the appeals assessment into disrepute.
- The Board should note, the Salmon leap Inn has been in existence since 19850, and it has been a public house since that date. The entire site is licenced under the relevant intoxicating liquor act with the exception of the subject building. The applicant owns the entire site. The proposal for the renovation and restoration of the derelict house does not conflict with the use of the site at present.

## **8.0 PLANNING HISTORY**

### **8.1 SD15A/0174**

Planning permission granted for retention of an extension onto the Salmon leap Inn

### **8.2 SD04A/0201**

Planning Permission granted for external beer garden and a new lobby.

### **8.3 S7952**

Refurbishment works and construction of wall and steps without planning permission.

## **9.0 DEVELOPMENT PLAN**

### **South Dublin County Development Plan**

The lands are governed by an zoning objective *To protect and enhance the outstanding character and amenity of the Liffey Valley and reserve its strategic importance as a green break between urban settlement areas*'.

**Policy AA6 – Areas of Archaeological Potential**

**Policy AA7 – Conservation of Buildings, Structures and Sites**

**Policy AA11 – Development Proposals involving Protected Structures**

## **10.0 ASSESSMENT**

### **10.1 Legalities, Unauthorised works, Enforcement Issues, and Planning History**

The bulk of the third party appeal against the planning authority's decision to grant planning permission for the change of use of an unoccupied building to a function room relates to enforcement matters and on-going legalities and validity of the planning application. Most of the matters submitted by the applicant are beyond the remit of the Board and I will not be addressing them in my report.

- The planning application was accepted and validated by the planning authority. The alleged internal repairs and the new repairs to the roof carried out to the building, may be exempted development. The appellant did not substantiate on this matter. I consider the public notices to be acceptable, and any issue regarding alleged unauthorised works or additions to the subject building should be raised with the planning authority and not the Board.
- The issue regarding a history of unauthorised works is a matter for the planning authority.
- The proposed development relates to an existing structure located to the side of the The Salmon Leap Inn. It is clear from my site inspection and OS maps, the existing structure has existed for a considerable length of time on the site.

10.2 The subject site is located at the entrance to Leixlip village along the Dublin Road alongside the bridge over the R. Liffey. The Salmon Leap Inn is a protected structure and has operated as a public house for over one hundred years. Having inspected the site, inside the protected structure and the curtilage, I commend the preservation of the use, the building and the internal features. As stated, the site has been used as a public house since 1850. The entire site is licenced under the relevant intoxicating liquor act except for the building which is the subject of this application. There is a large carpark to the rear of the public house, and the building the subject of this appeal addresses the carpark, ie its front elevation is onto the carpark. It is a detached structure and has no physical link to the public house. Its rear elevation is located along the Dublin Road. The internal layout of the Salmon Leap public house consists of an old traditional style Irish bar with small rooms and a number of cubby holes. The bar is not conducive to family functions such as christenings, funerals, and retirement parties. Therefore the existing outhouse building within the site, which is the subject of this application, should accommodate such functions within the licence of the main bar. The subject building will not be used as a nightclub/ dance hall or for late night drinking. Condition No. 2 of the grant of permission specified the opening hours of the function room as indicated in the further information submission.

### 10.3 Development Plan

Under the provisions of the South Dublin County Development Plan, the subject site is zoned I – **To protect and enhance the outstanding character and amenity of the Liffey Valley and preserve the strategic importance as a green break between urban settlement areas.** Having regard to the fact the use is a long established use on the site that predates planning legislation, the subject building is 'existing' and not a new build structure, I consider the proposed development to be in keeping with the zoning objective for the area. The appellant has argued that dance halls and discothèques are not permitted in principle under the zoning objective. Firstly the refurbishment of the building will enhance the visual amenities of the area. The appellant's grounds of appeal are misleading as the planning application does not refer to discos or dances, it clearly states in the further information response received on 25<sup>th</sup> of November 2015, that the change of use is for small functions only. The use of the structure will be functions such as christenings, funerals and retirement parties. It will be used three days per weeks, and the operating hours will depend on the function, christenings and funerals will be 12pm-6pm, whereas retirements parties would be 7pm-11pm. There is usually background music or a one man band, with finger food. Most of the food will be prepared within The Salmon Leap with no mechanical noise from the proposed kitchen. I consider the proposal to be in keeping with the zoning objective for the area. In addition, the proposed change of use compliments the existing and established use on the subject site as a public house.

### 10.4 Carparking

There are 64No. on-site carparking spaces. The Salmon Leap Inn public area is 196sq.m. and requires 33No. spaces while the function room has 96sq.m. requiring 16No. spaces. This gives a total carparking space requirement for both buildings of **49No. spaces**(1 space per 6sq.m.). The carparking provision is in excess of Table 2.2.4 Car Parking Standards to Land Use of the County Development Plan.

### 10.5 Conservation Issues

The Salmon Leap Inn is included on the South Dublin County Record of Protected Structures (Ref 009). The appellant argues the proposed extensions at either end of the building will seriously detract from the character and appearance of the building, and will cause significant detriment to the special interest of the Protected Structure.

10.6 I noted during my inspection there are two metal containers where the proposed extensions are to be constructed at either end of the building. According to the further information, the two steel containers are temporary structures which are used as storage areas until the planning permission for the new venue is permitted. The existing building is 98sq.m. and the proposed extensions are 50sq.m. one side will accommodate a small kitchen area and the other will accommodate toilets. Basically the existing and proposed development are modest in scale with a total floor area of 150sq.m. The two side extensions will balance the existing single storey low profile building.



10.7 The relationship of the existing structure to the protected structure on site (Salmon Leap Inn) is not very obvious. From the Dublin Road and the bridge entering Leixlip, the Protected Structure is the primary feature on the entire site area. The subject building is single storey, and its rear backs onto the main road, making its contribution to the architectural integrity of the protected structure to be nominal. Therefore having regard to the small scale of the proposed extensions and the change of use impacts on the interior of the building only, I do not consider the proposed development will have a material impact on the protected structure.

#### 10.8 **Other Matters**

There had been objections to the proposed development at planning application stage regarding the potential of noise nuisance and general disturbance. However a Noise report submitted as part of the further information indicated the ambient noise levels in the area are high. This is an urban area and the development is located alongside a heavily trafficked route. Having regard to the ambient noise levels, and the indicated opening hours, 12pm-11pm, and the surrounding landuses, I believe the proposal to be acceptable.

### 11.0 **RECOMMENDATION**

Overall I consider the grounds of appeal to be frail and I recommend the Board uphold the planning authority's decision to grant planning permission for the change of use and extensions to the structure.

### **REASONS AND CONSIDERATIONS**

Having regard to the established pattern of development in the area and the existing use on the site, 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 adversely affect the character of the protected structure, would be acceptable in terms of traffic safety and would not, therefore, be contrary to the proper planning and sustainable development of the area.

## CONDITIONS

1. The development shall be carried out 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 28<sup>th</sup> of August 2015, except as may otherwise be required in order to comply with the following conditions.

**Reason:** In the interest of clarity.

2. (a) The proposed development shall operate only Monday –Sunday during the hours of 12.00-23.00hours.  
  
(b) The proposed change of use shall operate as a function room only, and no further change of use shall take place unless authorised by a prior grant of planning permission.

**Reason:** In the interest of residential amenity.

3. Full details of any external lighting and signage proposals shall be submitted to the planning authority for written agreement prior to commencement of development.

**Reason:** In the interest of visual amenity.

4. Water supply and 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.

5. a) All foul sewage and soiled water shall be discharged to the public foul sewer.

b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.

**Reason:** In the interest of public health.

6. Prior to the commencement of the development the applicant shall submit to and agree in writing full details of fenestration design and specification.

**Reason:** In the interests of visual amenity.

7. 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. 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.

---

**Caryn Coogan**

**Planning Inspector**

**18/05/2016**