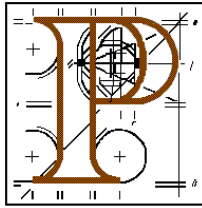


An Bord Pleanála



Inspector's Report

PL26.246500

DEVELOPMENT:-

Permission for retention for a beer garden with associated works and also permission to erect acoustic barrier measures at Gorey Corporation Lands, Gorey Urban, Co. Wexford.

PLANNING APPLICATION

Planning Authority: Wexford County Council
Planning Authority Reg. No: 07/13
Applicant: Sean Doyle Entertainment Ltd
Application Type: Permission
Planning Authority Decision: Refuse

APPEAL

Appellant: Sean Doyle Entertainment Ltd
Type of Appeal: 1st-v-Refusal

DATE OF SITE INSPECTION: 27th July 2016

Inspector: Colin McBride

1. SITE DESCRIPTION

- 1.1 The appeal site, which has a stated area 0.0125 hectares, is located within the curtilage of an existing public house in the central area of Gorey town. The public house (Paddy Blues) is located at the junction of North Parade and Pearse Street. The site is the rear yard area currently being used as a beer garden. The existing public house is to the west of the site with a two-storey structure housing an off-licence and a dwelling fronting Pearse Street located to the south. The off-licence and dwelling are owned by the applicant with the dwelling used as staff accommodation. To the east of the site is a two-storey terraced dwelling fronting Pearse Street with other dwellings located further east along Pearse Street. To the north is an alleyway providing access to properties that front onto Pearse Street and Cluainin to the north including a number of residential properties. The existing beer garden has tables and chairs and an area with a retractable roof. Existing boundary treatment to the north and the west include an existing hedgerow with a wooden gate to the existing alleyway.

2. PROPOSED DEVELOPMENT

- 2.1 Permission is sought for the retention of a beer garden with associated works and also permission to erect acoustic barriers.

3. LOCAL AND EXTERNAL AUTHORITY REPORTS

3.1

- (a) Environment Section (11/03/16): Acoustic attenuation barrier proposed would be inadequate.
- (b) Planning report (23/03/16): Concerns are raised regarding the impact of the proposal on the residential amenity of nearby properties. Refusal was recommended based on the reason outlined below.

4. DECISION OF THE PLANNING AUTHORITY

4.1 Permission refused based on one reason...

- 1. Having regard to the outdoor nature of the use, the proximity to residential properties and the operating hours, it is considered that the development would seriously injure the residential amenities and depreciate the value of property in the vicinity by reason of noise and general disturbance. The*

development would, therefore, be contrary to the proper planning and sustainable development of the area.

5. PLANNING HISTORY

5.1 20150878: Permission refused for retention for a beer garden and associated work and also permission to erect acoustic barrier measures.

5.2 20150392: Permission refused for retention for a beer garden with associated works.

5.3 PL26.215671: Permission refused to erect a covered yard/canopied area to existing premises.

1. Having regard to the outdoor nature of the proposed use, the proximity to residential properties and the late operating hours, it is considered that the proposed development would seriously injure the residential amenities and depreciate the value of property in the vicinity by reason of noise and general disturbance. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

5.4 20081950: Permission granted for revision of boundaries from that previously granted under ref no. 20053212.

5.5 20053212: Permission granted for change of use of dwelling to off-licence at no. 1 Pearse Street to the south of the site.

6. PLANNING POLICY

6.1 The relevant plan is the Gorey Town & Environs Local Area Plan 2010. The site is zoned 'Town Centre' with a stated objective 'to protect and enhance the character of the existing town centre by providing for the development and improvement of appropriate town centre uses including residential, retail, commercial, office and civic uses'.

7. GROUNDS OF APPEAL

7.1 A first party appeal has been lodged by Molloy Architecture on behalf of Sean Doyle Entertainment Ltd. The grounds of appeal are as follows...

- It is noted that the nature of use is consistent with the established public house and the land use zoning objective of the site.

- It is noted that there is a commercial requirement for the proposed development to facilitate a smoking area for patrons.
- The appellant notes that there was one objection from the owners of a dwelling to the north of the site and that undue weight was given to the objection. The appellant notes that the objector's property is not compliant with its planning permission being closer to the boundary than permitted and that any noise pollution experienced is due to such. It is noted that the applicant/appellant tried to engage in consultation and questions the motivation of the objection.
- Since previous proposals on site were refused the applicant has attempted to provide for mitigating measures. An Environmental Noise Report was submitted and a number of mitigating measures are proposed that would protect residential amenities.

8. RESPONSES

8.1 Response by Wexford County Council.

- The response notes that the Council have no further comments to make.

9. ASSESSMENT

9.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Principle of the proposed development

Impact on adjoining properties, noise impact/general disturbance.

9.2 **Principle of the proposed development:**

- 9.2.1 The proposed development entails the retention of a beer garden to the rear of an existing public house and permission for acoustic barriers. The site is zoned 'town centre' under the Gorey Local Area Plan 2010 with a stated objective 'to protect and enhance the character of the existing town centre by providing for the development and improvement of appropriate town centre uses including residential, retail, commercial, office and civic uses'. The proposal is for retention of the beer garden to the rear of the existing public house and additional acoustic mitigation measures such as an acoustic lobby between the existing public house and the beer garden and an acoustic barrier along the northern boundary consisting of a concrete post and timber infill panels. The proposal is for a use of the rear yard for a purpose ancillary to the existing public house and given the town centre zoning such would be consistent with the zoning objective of the site. In this regard the principle of the proposed development would be satisfactory. The acceptability of the proposal is contingent on it being acceptable in the context of the amenities of

adjoining properties, which does include existing dwellings and such aspects of the proposal are to be examined in the following section of this report.

9.3 Impact on adjoining properties, noise impact/general disturbance:

- 9.3.1 Despite being located in a town centre location there are a number of dwellings located in close proximity to the site and in particular the beer garden. These include on the opposite side of the laneway running along the northern boundary of the site and a dwelling immediately to the east of the site. The main issue appears to be use of the area to the rear as a beer garden and the general disturbance and noise impact such would have relative to adjoining residential properties. The proposal does include sound mitigation measures in the form of an acoustic lobby between the external and internal area to prevent overspill of music/noise from the existing pub and an acoustic barrier along the northern boundary (concrete post fence with timber infill panels).
- 9.3.2 The application documents and appeal submission include an Environmental Assessment Report including a noise assessment by an acoustic consultant. The assessment included survey results to establish ambient noise levels. The criteria used for assessing noise impact were the World Health Organisation Guidelines. A number of mitigation measures are proposed, which in addition to the acoustic lobby and barrier include a limitation on the number of patrons using the beer garden at any one time, preventing access after 22:00 hours, no amplified music and no external use of television/audio visual equipment and a number of measures regarding amplified music within the premises. It is noted that the application of such measures will result in a significant reduction in the noise level.
- 9.3.3 The existing beer garden for retention is an external area of significant size that is located in a built up area in close proximity to existing residential properties. The area has been designed to maximise usage of the external area including a significant level of seating, a covered area with a retractable roof and a television in the outdoor area. Given the operating hours of a public house there is a very real concern that the maximum usage of this area at unsociable hours would give rise to significant disturbance of residential amenities of existing adjoining properties due to the nature, intensity and proximity of the use proposed. The report regarding noise impact is noted; however I would consider that such does not alleviate concerns regarding the nature, scale and intensity of the activity in the external area in close proximity to existing dwellings. I would note that the acoustic measures may reduce noise levels and I would note in particular that the acoustic lobby would be of benefit in preventing overspill of amplified music into the external area. This however is not the main concern. The beer garden area is designed to provide an external area that would operate at a high intensity of occupation

and encourages patrons of the public house to use and remain in the outside area. Given the operating hours of the public house, the maximum use of this area would give rise to considerable noise and disturbance at anti-social hours and subsequently would be injurious to the residential amenities of adjoining properties. The impact of such is not purely a consideration of noise levels, it is the fact that the maximum occupancy of the area and would give rise to noise and general disturbance over a period of time that would be detrimental to the residential amenities of existing dwellings. The applicant/appellant has indicated that they would have restrictions on the number of people using the area at any one time and have a restriction on hours of operation of the outdoor area. Given the integral nature of the proposal and its accessibility from the public house, I do not see such as feasible measures to prevent an intense use of the area in question. The applicant/appellant has noted the need for an outdoor smoking area in the appeal submission. I would consider this is a fair point and that there is no reason that some short of smoking shelter could be provided in the external area, however what is proposed is an outdoor area designed to accommodate external use of an intensity way above what a basic smoking area would facilitate. I would consider that having regard to the outdoor nature of the proposed use, the overall design and scale of such, the intensity of use it would encourage, the proximity to residential properties and the late operating hours, it is considered that the proposed development would seriously injure the residential amenities and depreciate the value of property in the vicinity by reason of noise and general disturbance. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

9.4 Other Issues:

- 9.4.1 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, 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 recommend a refusal of permission based on the following reasons.

REASONS AND CONSIDERATIONS

1. Having regard to the outdoor nature of the proposed use, the overall design and scale of such, the intensity of use it would encourage, the proximity to residential properties and the late operating hours, it is considered that the proposed development would seriously injure the residential amenities and depreciate the value of property in the vicinity by reason of noise and general disturbance. The

proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Colin McBride
29th July 2016