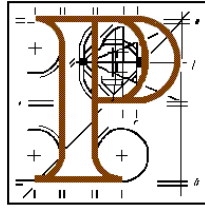


# An Bord Pleanála



## Inspector's Report

**PL. 03 246750**

**DEVELOPMENT:** Permission for reconstruction of the front facade of the existing building.

**LOCATION:** Parnell Street Carpark (Harvey's Quay) Ennis, Co. Clare.

### PLANNING APPLICATION

Planning Authority: Clare City Council.  
P. A. Reg. Ref: 16/242  
Applicant: John Kevin Considine  
Decision: Grant Permission.

### PLANNING APPEAL

Appellant: Connolly O'Neill, Solicitors  
Type of Appeal: Third Party Appeal against decision to Grant Permission.  
Observers: None

**Date of Site Inspection:** 22<sup>nd</sup> August, 2016.

**Inspector:** Jane Dennehy.

## **1.0 SITE LOCATION AND DESCRIPTION**

- 1.1 The application site is that of a two storey terraced double fronted building facing onto Harvey's Quay adjacent to the River Fergus with a stated floor area of 226.87 square metres. Salthouse Lane and Barretts Lane to the east and west respectively link Harvey's Quay to the north with Parnell Street to the south. There is a public footpath to the front and public pay and display carparking within the quays area.
- 1.2 At upper floor level the building is in residential use and at ground floor level retail space to either side of the centrally located entrance is unoccupied. To the east side adjoining the building is a single storey building in retail use occupied by a tailoring/alterations business. To the south/rear and to the east side there are three storey buildings in retail, public house, and residential use.

## **2. THE PLANNING APPLICATION.**

- 2.1 The application lodged with the planning authority on 13<sup>th</sup> January, 2016 is a proposal for reconstruction of the front facade of the existing building according to the public and newspaper notices and the application form lodged with the planning authority. Six windows are shown at upper floor level, a new shopfront and fascia at ground floor level and two separate entrance doors at each end of the frontage. A napped plaster finish with plastered signboard, moulding, columns and capitals for the shopfront are indicated.
- 2.2 The application includes a detailed method statement relating to renovation works for the property in entirety in addition to the proposed development subject of the application.
- 2.3 The lodged plans also indicate details of other works comprising mainly of internal alterations.
- 2.4 A drawing lodged with the previous application under P. A. Reg. Ref. 15/507 includes details of car spaces on Harvey's Quay to be decommissioned and scaffolding/hoarding to facilitate the demolition and construction works and public pedestrian circulation.
- 2.5 The internal technical report of the conservation officer indicates acceptability of the proposed development as being consistent with the

existing buildings and the ACA designation which seeks to preserve the seventeenth and eighteenth century market town. An archaeological monitoring condition is recommended in view of the site location within the area of the recorded monument of the historic town.

- 2.6 No other internal technical reports or reports of prescribed bodies were received by the planning authority.
- 2.7 A third party objection was received from the appellant party in which the issues of concern raised are similar to those in the appeal as outlined in section 4.

### 3. **DECISION OF THE PLANNING AUTHORITY.**

- 3.1 By order dated, 23<sup>rd</sup> May, 2016 the planning authority decided to grant permission subject to eight conditions.

Condition No 2 contains a requirement for a compliance submission for details of treatment of the arty walls required to facilitate the development.

Condition No 3 contains requirements for a compliance submission for a demolition method statement (to be prepared by a competent person) to include provision for supervision, of the works, dilapidation survey of adjoining properties, provision for support to adjoining properties, provision for protective hoarding and securing the site, projective hoarding to the front on the public footpath and minimisation of demolition work impact on the immediate environment.

Condition No 7 provides for arrangements for storage and removal of materials off the construction site.

Condition No 8 provides for restriction of hours of work at demolition/construction stage to 0800 to 1800 hrs Mondays to Fridays and 0800 – 140 hrs on Saturday only.

### 4. **PLANNING HISTORY.**

- 4.1 **P. A. Reg. Ref. 15.507:** Permission was refused for the demolition of the building in entirety and for construction of a new two storey building for reasons relating to design and integration with existing development, impact on adjoining properties and lack of evidence of sufficient legal interest to implement the proposed development.

## 5. THE APPEAL.

5.1 An appeal was received from Hassett Leyden Associates on behalf of the applicants on 15<sup>th</sup> June 2016 according to which:

- The description on the notices does not cover the full scope of the works being carried out. The additional works include two entrances, one on the ground and one on the first floor which lacks connection with a stairs, a new internal stairway new toilet facilities and provision of a rear storage room/yard. The applicant is similar to a previous proposal for which permission was refused. (P. A. Reg. Ref. 15.507). These works can impact on the property of the appellant at No 13 Parnell Street. The fee lodged covers the entire development.
- The development impacts on way leave, rights of way and way leaves over the sewers. There would be provision for a manhole for new toilet facilities at the rear for connection to a sewer – No details of proposed connections are provided.
- No 13 Parnell Street is a two storey structure and once constituted CTS Bargain Stores a single property. The attic space connecting the two properties has no division and separation at attic level and this should be addressed. Works carried by the applicant in this area may impact on the appellant property by way of noise and nuisance at construction.
- The facade lacks separation between attic spaces and a security issue could arise during construction. There is concern as to usage of space adjacent to an internal wall 1.5 metre from the appellant property being used for in storage or other uses that could adversely affect No 13 Parnell Street.
- The main concern of the appellant is the protection of the appellant's property (No 13 Parnell Street and connecting services,) during construction and privacy post construction of the rear space of the property.
- Condition No 3 attached to the decision to grant permission does not adequately address the issues raised in the objection submitted to the planning authority. Although a method statement was include wit the application, details about demolition works dilapidation surveys and support to adjoining property

should have been addressed during and not after the decision was made to grant permission.

- It is requested that permission be refused following the appeal on the basis of an inadequate planning application process and failure to address the concerns of the appellant.

## **6. THE APPLICANT'S RESPONSE TO THE APPEAL.**

6.1 There is no submission from the applicant on file.

## **7. OBSERVATIONS ON THE APPEAL BY THE PLANNING AUTHORITY.**

7.1 A submission was received from the planning authority on 14<sup>th</sup> July, 2016 according to which:

- Issues relating to services are a matter between the applicant and Irish Water which did not issue comments on the application to the planning authority.
- Condition No 3 is considered sufficient to address the concerns of the appellant and Conditions Nos. 7 and 8 regarding site management and construction hours also provide for protection of adjoining property. Condition No 3 is precise and consistent with Section 34 (5) of the Planning and Development Acts which allow for points of detail to be agreed with the planning authority by condition in that the requirements are not of significance or materiality that might necessitate a separate application.

## **8. DEVELOPMENT PLAN**

8.1 The operative development plan is the Ennis and Environs Development Plan, 2008 according to which the site is within an area subject to the zoning objective "Commercial – 1". The site location is also within an Architectural Conservation Area and adjacent within the area of the recorded monument, CL033-082 (historic own).

## **9. EVALUATION.**

9.1 The issues considered below which include matters raised in the appeal are:

- Adequacy of the application details and documentation.
- Demolition and construction management and impact on adjoining properties,
- Visual impact, having regard to the ACA designation.

## 9.2 **Adequacy of the application details and documentation.**

The issues raised in the appeal relate to potential adverse impact of development which is not included in the descriptions on the notices and application form for the current application but is included on the application drawings on the adjoining property at No 13 Parnell Street. The development not included in the application but shown on the drawings appears to be similar to the development for which permission was refused under P. A. Reg. Ref. 15/507. The substantive issues raised in the appeal relate substantively to the works proposed under P. A. Reg. Ref. 15/507 and in this regard it is acknowledged that the application documentation is somewhat confusing as to the nature and extent of the development proposal subject of the current application and appeal. However, it is considered that the decision can be satisfactorily determined with clarity as to the nature and extent of the proposed development.

## 9.3 **Demolition and construction management and impact on adjoining properties,**

The method statement included with the application addresses the development proposed under P. A. Reg. Ref. 15.507 inclusive of the current proposal. The methodology proposed fully addresses management and good practice in relation to demolition and construction works for the renovation of the facade which includes enabling works such as temporary use of part of the footpath, public carparking spaces in respect of which there is no evidence of objections by the local authority at planning application stage. The current application, being confined to the reconstruction of the front facade is relatively limited in terms of potential impacts on stability or disturbance to the adjoining properties and any potential encroachment or damage would be matters for resolution through the legal system. The position taken by the planning authority in its observations on the appeal as to the appropriateness of reliance on conditions for the resolution of the

matters of detail with regard to the relevant conditions attached to the planning authority decision, (having regard to section of the Planning and development Acts, 2000-2015) are fully supported in this instance.

#### **9.4 Visual impact, having regard to the ACA designation.**

The appeal is silent on these aspects of the proposed development and it is noted that the conservation officer indicated satisfaction as to proposed design detail and selection of materials. It is considered that a reasonable balance, having regard to the commercial nature of use and the zoning objective of solid to void has been achieved at first floor level which also acknowledges the vertical emphasis of fenestration in the Georgian and Victorian era, incorporates suitable materials and achieves compatible integration with building facades facing onto Harvey's Quay. An archaeological monitoring condition would be appropriate, given the location within the area of the recorded monument, old city. The ground works involved for the proposed development would be relatively limited.

#### **9.5 Appropriate Assessment**

Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a suburban and fully serviced location, no appropriate assessment issues arise

### **10. CONCLUSION AND RECOMMENDATION.**

- 10.1 In view of the foregoing, it is recommended that the planning authority decision be upheld. Clarification as regards the nature and extent of the proposed development as described in the notices can be provided for by condition. A draft order is set out below.

## DECISION

**Grant Permission on the basis of the Reasons and Consideration and  
Subject to the Conditions set out below.**

### REASONS AND CONSIDERATIONS.

Having regard to the site location at the centre of the town and within an area zoned 'Commercial 1' according to the Ennis and Environs Development Plan, it is considered that subject to compliance with the conditions set out below, the proposed development would not be seriously injurious to the visual amenities or integrity of the character of the built of the area, would not adversely affect adjoining properties, would not be prejudicial to public health, would be acceptable in terms of traffic safety and convenience and would be in accordance with the proper planning and 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. This grant of permission is for the reconstruction of the front facade of the existing building, as indicated in the public and newspaper notices only.

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

3. Prior to the commencement of the development the applicant shall submit and agree in writing with planning authority a dilapidation survey of potential impact on adjoining property and a fully detailed demolition and construction method statement prepared by a competent person which shall include provision for reinstatement works, waterproofing of any exposed gable ends of adjoining property and measures for the control of dust and, provision for supervision throughout demolition and construction by a competent person.

**Reason:** In the interest of amenity, orderly development and public safety and health.

4. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
  - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
  - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary,

archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

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**JANE DENNEHY.**  
**Senior Planning Inspector**  
**25<sup>th</sup> August, 2016.**