



An
Bord
Pleanála

Inspector's Report PL92.247031.

Development	Change of use of premises from retail discount store to use as a coffee shop and bakery, with internal alterations and associated ancillary site works, to a Protected Structure ref.no.RPS210.
Location	Exhibition House, 26 O'Connell Street, Clonmel, Co.Tipperary.
Planning Authority	Tipperary County Council.
Planning Authority Reg. Ref.	16600208.
Applicant	Martin Quigley Nenagh Ltd..
Type of Application	Permission.
Planning Authority Decision	Grant subject to conditions.
Type of Appeal	Third Party vs. grant.
Appellant	Anthony O'Gorman.
Observer	None.
Date of Site Inspection	9 th November 2016.
Inspector	Ciara Kellett.

1.0 Site Location and Description

- 1.1. The appeal site is located on the southern side of O'Connell Street, at the junction with Bridge Street. O'Connell Street is one of the busiest shopping streets in Clonmel and comprises three to four storey terraced buildings with mostly traditional shopfronts at ground floor level. There are a substantial number of Protected Structures on O'Connell Street. The site is located within the O'Connell Street and Gladstone Street Architectural Conservation Area (ACA), and within the Zone of Archaeological Potential.
- 1.2. No.26 O'Connell Street is listed on the Record of Protected Structures, ref. RPS 210. It is a three bay, four storey building designed by William Doolin, with parallel raised quoins and cornice. The building plaque on the corner and the doorcase with granite steps to Bridge Street are referred to in the RPS. The windows on the façade facing Bridge Street have been blocked up and are in poor condition. The site is currently vacant but was most recently used as a discount retail store. Heaton's store is located to the east of the appeal site. The appellant, at no.62 O'Connell Street, is located on the opposite side of the street. A number of properties along O'Connell Street are currently vacant.
- 1.3. Appendix A includes maps and photos of the site.

2.0 Proposed Development

- 2.1. The proposed development is for a change of use of the premises from retail discount store to use as a coffee shop and bakery with internal alterations, external signage, external elevation alterations and ancillary site works.
- 2.2. The site area is stated as being 0.0175Ha and the application relates only to works at basement and ground floor level. The external alterations proposed include: restoration of the façade to O'Connell street; restoration of windows and doors to the ground floor area on O'Connell Street; restoration of the windows on Bridge Street; and, internally the removal of the linings and suspended ceiling grid and tiles.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission subject to 7 conditions including a condition requiring the applicant to employ a suitably qualified archaeologist to monitor all ground works associated with the development.

3.2. Planning Authority Reports

3.2.1. The Planner's Report is the basis for the Planning Authority decision. It includes:

- The site is located within lands zoned Town Centre and within the town's Primary Retail Area, and therefore the proposal is considered acceptable in principle.
- The proposed façade changes are considered acceptable and do not impact on the character of the existing building and do not negatively impact on the O'Connell Street ACA, subject to agreement on signage and final colours of the shopfront.
- The site is located within a zone of archaeological constraint and an impact assessment is required.
- The site is located within the 1 in 100 year flood zone of the River Suir, but is defended from flooding by the Clonmel Flood Defence system. The proposal is considered to be a minor development in the context of the Flood Risk Management Guidelines, 2009. Changes proposed are mainly internal and the development vulnerability at basement and ground floor level is consistent with that currently existing on site.
- Following the response to the request for Further Information, which included the submission of an *Archaeological Impact Assessment including an Architectural Heritage Assessment*, the Planner recommended granting permission subject to conditions.
- The decision was in accordance with the Planner's recommendations.

3.2.2. Other Technical Reports

The application was referred to:

- District Engineer – no objection subject to conditions
- Water Services/Irish Water/Chief Fire Officer – no response referred to.

3.3. Prescribed Bodies

The application was referred to:

- Health Service Executive – no objections subject to conditions.
- Department of Arts, Heritage and the Gaeltacht – requested Archaeological Impact Assessment – no further response upon receipt of same.
- An Taisce, Heritage Council, Arts Council, Fáilte Ireland, OPW – no response.

3.4. Third Party Observations

One submission was received from Mr. Anthony O’Gorman, 62 O’Connell St. Clonmel. The main planning points raised by the objector include:

- No Architectural Conservation Report, Archaeological Report, or Flood Risk Assessment were included with the application.
- There are no ventilation proposals provided.
- Site is within the Primary Retail Area of Clonmel Town Centre where retail uses, not coffee shops and bakeries, should be promoted.

4.0 Planning History

There are no recent planning applications associated with the subject site. In the vicinity there have been a number of applications of relevance:

- 16600078 – Change of use from bank to mixed use development including restaurant at ground floor level and ancillary developments, and a two-bedroom apartment, at 5-6 O’Connell Street, granted permission in June 2016.

- 16600044 – Extension of duration for a Change of Use and alterations of the ground floor from residential to Betting Office at 1-2 Bridge Street granted in March 2016. Permission extended until 29th March 2021.
- 14600510, ABP Ref 244775 – Elevational alterations to facades at 8/9 O’Connell Street granted on appeal in August 2015.

5.0 Policy Context

5.1. Development Plan

The site is subject to the policies and objectives of the Clonmel and Environs Development Plan 2013.

Chapter three refers specifically to the Town Centre Strategy, chapter five to infrastructure, chapter seven refers to Built and Natural Heritage, Amenity and Recreation and chapter nine refers to Development Management Guidelines.

Chapter three notes that Clonmel is the Primary Service Centre for South Tipperary. The area zoned for town centre use encompasses the Primary Retail Area (PRA) and the surrounding Central Area. The PRA is the area primarily devoted to shopping while the town centre area is within 300-400m of the PRA. The PRA includes O’Connell Street. It is stated that it is an objective of the Plan to consolidate the PRA for “high street” retailing, activities and services to increase vitality and vibrancy and to reduce vacancy levels to the 2009 levels of 10%. It notes that high value retail uses (comparison retailing and restaurants/pubs) will be encouraged at ground floor level.

Policy TC3 states:

Enhancing the Town Centre Mix: It is a policy of the Council to strengthen the retail, commercial, residential and recreational functions of the town centre, to work with stakeholders to improve the retail mix, the occupation of vacant units/floors and improve the vitality and vibrancy of Clonmel.

Chapter five includes policy INF15: Flood Risk Assessment which notes that the Planning Authority will require development proposals to have regard to the potential flood risk to the development itself and its impact for flood risk elsewhere.

Chapter seven refers to the Built and Natural Heritage. Policy AH1 refers to Protected Structures. It states:

It is the policy of the Council to conserve and protect buildings, structures and sites contained in the RPS that are of special interest and to ensure any development is appropriate and sensitively undertaken. In assessing development proposals, the Council will, where applicable, have regard to the Architectural Heritage Protection Guidelines for Planning Authorities and any relevant Conservation and Management Plans. The Council, will proactively work with developers/applicants to facilitate the appropriate reuse/redevelopment of Protected Structures. The Planning Authority will resist; (a) Demolition of protected structures, in whole or part, (b) Removal or modification of features of architectural importance, (c) Development that would adversely affect the setting of a protected structure.

The appeal site is located in the O'Connell Street and Gladstone Street ACA. The Plan states that:

This ACA contains fine terraces of three/four storey buildings that relate to the focus of the Main Guard building at the axis of the two principle streets and the West Gate at the western end. The distinctive townscape within this ACA contains numerous buildings of social, cultural, historical and architectural interest. The facades, coach arches and laneways are additional features of the area which should be incorporated into new developments.

Policy AH2 states:

It is the policy of the Council to ensure the enhancement and management of the ACA. Within the ACAs the Council will have regard to: (a) The impact of proposed development on the character and appearance of the ACA in terms of compatibility of design, colour and finishes, and massing of built form; (b) The impact of proposed development on the existing amenities, character and heritage of these areas; and, (c) The need to retain important architectural and townscape elements such as shopfronts, sash windows, gutters and down pipes, decorative plasterwork, etc.

The site is located within a Zone of Archaeology Potential. Policy AH3 states:

It is the policy of the Council to safeguard sites, features and objects of archaeological interest generally and the Council will protect (in-situ where practicable or as a minimum, preservation by record) all monuments included in the Record of Monuments and Places and sites, features and objects of archaeological and historical interest generally.

Chapter nine refers to land use zoning objectives. The Town Centre zoning, TC, is *To preserve, enhance and/or provide for town centre facilities, and new development should comprise of mixed retail use, office, service, community and / or residential.*

Restaurants are listed as being acceptable in principle in the TC zoning.

Section 9.28 refers to Shopfronts and Advertising signage. The Plan states that planning applications for new shop fronts and signage will be considered on their own merits and of importance will be the integration of the proposal into its setting.

5.2. The Planning System and Flood Risk Management Guidelines 2009

Given the location of the appeal site in Clonmel, it is appropriate to consider the Guidelines produced by the OPW. Section 5.28 considers Assessment of Minor Proposals in areas of flood risk. It states:

Applications for minor development, such as small extensions to houses, and most changes of use of existing buildings and or extensions and additions to existing commercial and industrial enterprises, are unlikely to raise significant flooding issues, unless they obstruct important flow paths, introduce a significant additional number of people into flood risk areas or entail the storage of hazardous substances. Since such applications concern existing buildings, the sequential approach cannot be used to locate them in lower-risk areas and the Justification Test will not apply. However, a commensurate assessment of the risks of flooding should accompany such applications to demonstrate that they would not have adverse impacts or impede access to watercourse, floodplain or flood protection and management facilities. These proposals should follow best practice in the management of health and safety for users and residents of the proposal.

5.3. **Natural Heritage Designations**

The site is located approximately 50m from the Lower River Suir SAC (Site Code 002137).

6.0 **The Appeal**

A third party appeal against the decision to grant permission has been lodged by Mr. Anthony O’Gorman, 62 O’Connell Street, Clonmel.

6.1. **Grounds of Appeal**

The appellant states that the previous objection to the Council still stands and wishes to add a number of points.

- Refers to concerns about flooding. Notes flood relief works recently installed are working fine but that most of the basements on the southern side of O’Connell St. have flooded and still flood in high flood events.
- Appellant cannot understand why a Flood Risk Assessment was not carried out, specifically with respect to the basement element.
- Two potential flood issues have not been addressed: 1) flood water is generally contaminated with foul and effluent when it gets into basement, which is a serious conflict with proposed use, and 2) all these basements provide extra storage capacity.
- There is a proliferation of coffee shops in the vicinity of O’Connell St. and this proposal serves to further reduce vital retail elements in the town centre.

6.2. **Applicant Response**

The applicant’s response:

- A Flood Risk Assessment is submitted to the Board.
- The Flood Risk Assessment concludes that the residual flood risk to the building would be due to a flood event more extreme than the 1 in 100 year event, in which the new flood defences for the town were breached. Although

the likelihood of this occurring is low, an Early Flood Warning System has been put in place to allow temporary flood defences to be erected. A Flood Risk Management procedure will be put in place by the operators of the café in the event of a flood greater than the design standard of the Clonmel flood defences as advised by the authorities.

- Applicant is fully satisfied that the proposals to redevelop this property achieve full compliance with the requirements of the Flood Management Guidelines.
- With respect to the proliferation of coffee shops on O'Connell St., the applicant states that there is only one coffee shop on this part of O'Connell St. at present, O'Gorman's coffee shop, so does not believe there is a proliferation.
- The applicant notes that the existing retail unit has lain idle for a number of years and the subject proposal is a vast improvement.

6.3. Planning Authority Response

No response to the appeal has been received from the Planning Authority.

6.4. Further Responses

A further response was received from the appellant. In summary the response states:

- There are errors with the Flood Risk Assessment document: no levels at the property were taken; and, different levels are referred to throughout the document.
- Basements on O'Connell St. have flooded since the erection of the flood defence walls and it is not sensible to locate kitchen or food preparation areas in a basement. There could be a serious health and safety threat.
- Alternatives proposed – remove kitchen and prep areas from the basement or structurally tank the basement.

- An Ordnance Survey map is enclosed indicating the coffee shops within a short distance of the proposed development.

7.0 Assessment

7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development
- Flood Risk
- Appropriate Assessment

7.2. Principle of Development

The appellant considers that there is a proliferation of coffee shops in the vicinity of the site and this proposal would further reduce retail space in the town centre.

The site is located within the Primary Retail Area (PRA) of Clonmel that has Town Centre (TC) zoning, which is to preserve and enhance town centre facilities and provides that new development should comprise of mixed retail use and services. The Plan states that restaurants are acceptable in principle in this zoning. I consider that the principle of a coffee shop in this zoning is acceptable.

The Clonmel & Environs Development Plan states that a principle aim of the Plan is to attract appropriate value added uses for the town and to enhance the town centre mix. The Plan notes that *high value* retail uses including comparison retailing and restaurants and pubs are to be encouraged at ground floor level in the PRA. I consider that a coffee shop would be such a *high value* use. During my site visit I noted that there are a number of coffee shop/restaurants/pubs along O'Connell St. but I do not consider 6 no. to be a proliferation (including the soon to be opened restaurant, subject of Reg. Ref. 16600078). I am satisfied that the addition of a

coffee shop and bakery in this location would not negatively impact the comparison shopping potential opportunities.

There are a number of vacant units in the town centre. During my site visit I noted 9 no. vacant units along O'Connell St. including the subject site. Policy TC3 of the Plan states that the Council will encourage the occupation of vacant units. This proposal will assist the Council in reducing the number of vacant units and will add to the vitality and vibrancy of the area, in full compliance with the policies for the Town Centre.

No.26 O'Connell Street is included on the Record of Protected Structures, Ref S210. During my site visit I noted that the windows facing Bridge Street are boarded up. The reinstatement of the windows on Bridge Street will result in a positive impact both in terms of restoring the historic structure and providing a more vibrant façade to the public realm of Bridge Street. Furthermore, the changes proposed will contribute towards the enhancement and management of the Architectural Conservation Area.

In conclusion, I am satisfied that the development of a coffee shop and bakery in this location is fully in accordance with the policies and objectives for the town centre in the Clonmel & Environs Development Plan; it will contribute towards the improvement of the public realm in this location; it will improve the visual amenities in the area; it will not negatively impact the Protected Structure; and, it will contribute towards the enhancement and management of the ACA.

7.3. Flood Risk

In response to the third party appeal the applicant submitted a Flood Risk Assessment Report to the Board. The Report states that the Clonmel Flood Defence System is designed to manage a 1 in 100 year storm event and therefore the building is protected from flooding up to the 100 year return period event. The Report only considers the residual risk associated with an event in excess of this and suggests options for the applicant to consider when refurbishing the building.

The Report states that Flood Risk Maps for Clonmel, as part of the CFRAMS programme, have been published and confirm that the appeal site is located in the Flood Zone B.

The Flood Risk Management Guidelines provides advice with respect to proposals for minor development (see Section 5.2 above). The Guidelines recognise that most changes of use of existing buildings are unlikely to raise significant flooding issues unless they obstruct an important flow path, introduce significant additional number of people or entail storage of hazardous substances.

I am satisfied that the subject proposal is unlikely to raise significant flooding issues with the change of use and mostly internal modifications proposed.

The appellant states that basements in O'Connell Street have flooded since the erection of the Clonmel Flood Defence system, however, no further information has been provided as to where. I am satisfied that the proposal provides for further defences of a demountable type, at the doorways on O'Connell Street and Bridge Street, and a flood risk management procedure will be prepared in the event of an extreme flooding event.

I am therefore satisfied that the proposed development will not raise significant flooding issues.

7.4. Appropriate Assessment

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, 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.

8.0 Recommendation

I recommend that planning permission should be granted, subject to conditions, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

Having regard to the location of the site in Town Centre zoned lands within the Primary Retail Area of Clonmel town, and to the compliance with the development standards for works to a Protected Structure, works within an Architectural Conservation Area and works within a Zone of Archaeological potential, in the Clonmel and Environs Development Plan, 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 cause further flooding. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 20th day of June 2016, 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. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site

investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 site and to secure the preservation and protection of any archaeological remains that may exist within the site.

- . 3. A schedule and appropriate samples of all materials to be used in the external treatment of the development to include shopfront materials, signage, windows and doors, shall be submitted to and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure an appropriate standard of development/conservation.

4. All repair works to the protected structure shall be carried out in accordance with best conservation practice as detailed in the application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in 2011. The repair works shall retain the maximum amount of surviving historic fabric in situ, including structural elements, plasterwork (plain and decorative) and joinery and shall be designed to cause minimum interference to the building structure and/or fabric. Items that have to be removed for repair shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.

Reason: To ensure that the integrity of the structure is maintained and that the structure is protected from unnecessary damage or loss of fabric.

5. No external security shutters shall be erected on any of the premises unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. Surface water from the site shall not be permitted to drain onto the adjoining public road.

Reason: In the interest of traffic safety.

Ciara Kellett
Senior Planning Inspector

10th November 2016