



An
Bord
Pleanála

Inspector's Report PL03.249035

Development	Retention of upgraded roofed smoking area, storage shed and associated site works to rear of the licensed premises.
Location	Main Street, Liscannor, Co. Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	P17/386
Applicant(s)	Tony Considine
Type of Application	Retention
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party V Grant
Appellant(s)	Catherine Considine
Observer(s)	None
Date of Site Inspection	12 th October 2017
Inspector	Rónán O'Connor

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1.0 Site Location and Description

- 1.1. The appeal site is a Public House with rear area on the northern side of Main Street, Liscannor, Co. Clare. To the east is a residential property and to the west is vacant building and site. To the front of the appeal site is off street parking.

2.0 Proposed Development

- 2.1. Retention of upgraded roofed smoking area, storage shed and associated site works to rear of licensed premises.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Grant permission. Conditions of note are as follows:

- Condition 3: Sale of beverages restricted to main licenced premises.
- Condition 4: No amplified sound in the rear yard.
- Condition 5: No window openings in the side elevations along the party boundary of the smoking shelters or storage shed.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

The report of the planning officer reflects the decision of the planning authority.

Points of note are as follows:

- No objection to the principle of the use
- The storage shed appears to have the ability to function as an outdoor bar
- Noise from patrons on street would be similar to that within the smoking area
- Use of the yard for serving/sale of alcohol would be an unacceptable intensification of the use

3.2.2. Other Technical Reports

None

3.3. **Prescribed Bodies**

3.3.1. None

3.4. **Third Party Observations**

3.4.1. One submission objecting to the application was received by the LPA. This is summarised as follows:

- Application is for a large beer garden used as a bar area for functions
- Litter from the beer garden is thrown into her garden
- Noise levels, hours of operation, impacts negatively on amenity
- Other works have been carried out on site

4.0 **Planning History**

4.1.1. 14/213 - Refuse - Extend the Appropriate Period of Planning Permission P 08-1132 for a mixed use development consisting of alterations, upgrading and extensions to "Egans" pub and "Joseph McHugh" including hostel and commercial unit and all associated site works

4.1.2. 09/1093 - Grant - the development consists of retention of alterations to mixed use development at Egans Pub and Joseph McHugh's granted under planning permission P08/1132

4.1.3. 06/406 Grant – Retention and completion of alterations to the rear of their premises as granted under Planning Application P05/1859 at Joseph McHugh Pub

4.1.4. 05/1859 Grant - alterations and extension including change of use of the existing first floor apartment to kitchen, staff facilities and public toilets, with bottle stores, outbuildings and associated site works

5.0 Policy Context

5.1. Development Plan

5.1.1. The relevant plan is the Clare County Development Plan 2017-2023. Liscannor is located within the West Clare Municipal District. The site is zoned mixed use. General objectives for Liscannor include:

- To ensure that the village maintains and increases its existing permanent population levels.
- To make provision for growth within the village which will support existing services and
- encourage further expansion of the service base, whilst retaining its character and setting.
- To encourage proposals for suitably-scaled and appropriate commercial or employment generating development.

5.1.2. It is also an objective to make provision for the development of tourism and leisure activities.

5.2. Natural Heritage Designations

5.2.1. None

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of appeal, as submitted by the Third Party Appellant, are as follows:

- Live immediately adjacent to the appeal site
- Expansion of pub activities in the rear yard has made life intolerable in terms of noise and anti-social behaviour
- Planning application is a complete misrepresentation of the development actually being carried out to the rear of the pub

- In practise this area is fully functioning outdoor beer garden with amplified music, full bar facilities and seating
- The overall area of the smoking is equivalent to the indoor bar area
- Regularly used for functions and parties with no control over noise
- Privacy of backyard should be respected
- Activities occur throughout the year
- Associated with anti-social behaviour including littering
- Take issue with Clare County Council's assessment of the application
- Nothing in planning history to suggest that the beer garden is permitted
- This is a fully equipped outdoor bar with full bar facilities located behind shutters which can be opened or closed easily
- Was previously a yard overgrown with trees

6.1.2. 16 no. photos have been received with the appeal submission.

6.2. **Applicant Response**

6.2.1. A response to the Third Party Appeal was submitted by Thomas Burke, on behalf of the applicant. This is summarised below:

- Applicant opened pub in December 2015 and spend a considerable amount of money on renovations
- Upgraded smoking area to the rear as it was dangerous for patrons and there was no shelter
- It is now a safe area with shelter
- Enclosure of the area has actually made the space more private as previously only a stone wall formed part of the boundary between the pub and the appellant
- Appellant moved in knowing there was licenced premises on either side

6.3. **Planning Authority Response**

- No objection in principle to use

- Consider that yard has an established ancillary use to the day to day running of the pub
- Concerns of the observer are acknowledged and conditions were attached to the permission in relation to noise and use

6.4. **Observations**

6.4.1. None

6.5. **Further Responses**

6.5.1. None

7.0 **Assessment**

7.1. In my view the substantial issues raised in this appeal can be dealt with under the following headings:

- Principle of Development
- Neighbouring Amenity
- Appropriate Assessment

7.2. **Principle of Development**

7.2.1. I note the appellant has raised the issue of whether the smoking area has permission for a use as a smoking area. However, the appeal does not relate to the principle of the use of the area as a smoking area, and I note the LPA has not raised an in principle objection to the use. In relation to any breach of planning I note that the Board does not have a role in Enforcement matters.

7.2.2. As such, I consider the principle of erecting structures associated with the use of the pub and smoking area is acceptable, given the existing pub on site and the village centre location.

7.3. **Neighbouring Amenity**

7.3.1. I note the appellant's property shares a boundary wall with the appeal site. The rear garden of the appellant's property is directly adjacent to the smoking area. The main

potential impacts on amenity relate to noise. From my site visit I observed that there were speakers attached the structure and a storage area, which has the potential to be used as an area for serving alcohol. It is my view that the conditions that the LPA have imposed, in relation to the restriction of amplified music and restricting the sale of alcohol from the smoking area, are sufficient to overcome noise concerns.

- 7.3.2. In relation to the issue of littering, this is not strictly a matter for planning rather it is a matter for the management of the pub and is enforced by other legislation.

7.4. Appropriate Assessment

- 7.4.1. The site is neither in nor near to a Natura 2000 site. The closest SPA to the site is the Cliffs of Moher SPA which is 3.7km north-west of the site. The closest SAC is the Inagh River Estuary SAC which is 1.2km to the east of the site.

- 7.4.2. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the proximity to the nearest European Site, no Appropriate Assessment issues arise and it is not considered 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

- 8.1.1. I recommend that planning permission should be granted for the proposed development for the reasons and considerations set down below and subject to the following conditions.

9.0 Reasons and Considerations

Having regard to the provisions of the Clare County Development Plan 2017-2023 and to the nature, and scale of the proposed development, it is considered that subject to compliance with the following conditions, the proposed development would not seriously injure the amenities of the area or of property in the vicinity. 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 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 interests of clarity.

2. No sale of beverages shall occur from the rear yard, storage area or smoking area. The sale of beverages shall be restricted to the main licensed premises.

Reason: In the interests of orderly development and in order to safeguard the residential amenities of the area.

3. No amplified music shall be played at any time in the rear yard.

Reason: In order to safeguard the residential amenities of the area.

4. No window openings are permitted on the side elevations along the party boundary of the smoking shelters or the storage shed.

Reason: In the interest of residential amenity.

5. All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

Reason: In the interests of traffic safety and to prevent pollution.

6. 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

Rónán O'Connor
Planning Inspector

14th November 2017