



An
Bord
Pleanála

Inspector's Report ABP-300115-17

Development	Permission for erection of a single storey extension to the Holy Grail restaurant (including new kitchen and wheelchair accessible entrance lobby) and associated works.
Location	1 Selskar Square, Selskar Avenue, Wexford
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20171133
Applicant(s)	Kevin Doyle
Type of Application	Permission
Planning Authority Decision	Grant Permission subject to conditions
Type of Appeal	Third Party
Appellant(s)	Stephen and Annie Byrne
Observer(s)	No observers
Date of Site Inspection	13/02/2018
Inspector	Erika Casey

1.0 Site Location and Description

- 1.1. The subject site is located at a corner site at Trimmers Lane West and Selskar Square in Wexford Town Centre. The site currently accommodates a two storey commercial building occupied by a restaurant known as the Holy Grail. There is an enclosed yard located to the west of the building that serves as an outdoor seating and bin storage area. The restaurant has frontage directly to the street whilst the adjacent courtyard is bound by a cut stone wall, decorative railings and an entrance gate c. 2 metres in height.
- 1.2. Selskar Square is a pedestrian only zone with a mix of uses include restaurants, offices, retail and residential. Selskar Abbey is located to the north of the site on the opposite side of the road. To the west, is a three storey townhouse, the rear wall of which abuts the boundary of the subject site. To the east, is a terrace of two storey dwellings.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a single storey extension to the west of the existing restaurant within the existing enclosed courtyard. The extension is flat roofed with two velux windows and will have an area of 75.2 sq. metres. It is stated that the purpose of the new extension is to accommodate the kitchen which will be relocated from the first floor. The courtyard will be reduced in size to accommodate the new extension.
- 2.2. The extension will be built up to the shared boundary wall to the west. New boundary treatment to the north comprising a new wall and railings is proposed. The existing stone piers will be removed. A gas and waste store is proposed to the north of the site inside the new boundary wall. The development also provides for a new wheelchair accessible entrance lobby to the existing restaurant.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1 To Grant Permission subject to conditions. Conditions of note include:

Condition 6: None of the proposed new walls on the north elevation shall be finished in plaster but shall be finished in stone to match the existing wall. The colour and finish of the proposed new railings and gates shall be submitted and agreed with the Planning Authority prior to the commencement of development.

Condition 9: The outdoor courtyard area shall not be used for eating or drinking after 9.00 on any day. No external lighting of the courtyard shall be erected without the prior approval of the Planning Authority.

3.2. Planning Authority Reports

3.2.1. Planning Report (05.10.2017)

- The proposed front boundary does not marry well with the existing stone wall. Condition required that the proposed new low wall and new block wall be finished in stone to match existing.
- The Planning Authority does not consider that relocating the existing kitchen will impact negatively on adjoining residential amenity. The relocated kitchen will have windows facing the internal courtyard. The kitchen windows presently open directly across from the first floor windows of the townhouse. The proposed development will be an improvement to the existing situation.

3.2.2. Other Technical Reports

Chief Fire Officer (01.09.2017): No objection.

3.3. Prescribed Bodies

- No reports received.

3.4. Third Party Observations

3.4.1 1 no. third party observation by Stephen and Annie Byrne.

- Concerns regarding noise and odour impacts.
- Potential negative impacts on the residential amenity of their property.
- Potential impact on the existing water down pipe.

- Concerns regarding structural impacts to the common party wall.
- Object to the use of the courtyard as an outdoor seating area.

4.0 Planning History

Planning Authority Reference W2007052

4.1 This is the parent permission relating to the current restaurant use on the site. In August 2007 permission was granted for the change of use of existing retail premises to restaurant use and associated site works.

5.0 Policy Context

5.1. Development Plan

5.1.1 The operative Development Plan is the Wexford Town and Environs Development Plan 2013-2019. The subject site is zoned Town Centre: "*To protect and enhance the special physical and social character of the existing town centre and to provide for new and improved town centre facilities and uses*". It is stated that the purpose of this zone is to protect and enhance the special character of Wexford Town centre and to provide for and improve retailing, commercial, office and other uses appropriate to the town centre which complement its historic setting.

5.2. Natural Heritage Designations

5.2.1 The nearest Natura 2000 sites are the Slaney River SAC and the Wexford Harbour slob SPA located c. 0.2 km to the east.

6.0 The Appeal

6.1. Grounds of Appeal

- Concerns regarding potential noise and odour impacts from the proposed extended restaurant. The proposed kitchen which includes velux windows will be located closer to their property and will have more significant impacts. No

detail of ventilation systems or noise reduction equipment has been shown in the application.

- Object that extension will be constructed on a boundary wall and that no details have been provided on how it is intended to tie into the wall. Concern regarding potential impacts during the construction phase.
- No consideration has been given to the fact that that the development will result in the blocking up of 2 existing air vents on the boundary wall which will have a negative impact on their property as it will prevent extraction from their kitchen.
- Consider that the development will impact negatively on the existing rainwater downpipe and gulley located on the boundary. The development will result in the closure of the gulley and prevent clearing of blockages that may occur.
- The development will result in a deficit of car parking.

6.2. Applicant Response

- The proposed extension is necessary as the current first floor location of the restaurant is causing operational difficulties for the existing restaurant. The new arrangement also allows for the provision of a proper disabled access to the property. There will be no additional seating in the extension and thus no intensification of use.
- The proposed roof lights are to provide natural daylight to the kitchen extension. Ventilation will be by means of a modern mechanical extraction system which will be designed and installed with due regard to the amenities of adjoining properties with the agreement of the planning authority.
- The ventilation of the existing dwelling will not be restricted as the vent can be carried up over the new roof and fitted with a cowl. The existing rain water pipe can discharge onto the roof of the new kitchen. The disposal of surface water will be agreed with the area engineer prior to commencement of development.
- It is proposed to construct a new wall between the kitchen and the neighbouring dwelling which will reduce any potential noise impacts. The new wall will carry the support for the roof and thus no roof support or joist will rest on the existing boundary wall. Flashing and waterproofing of the new roof off the boundary wall

will be undertaken to ensure that debris does not lodge between the two buildings.

6.3. **Planning Authority Response**

- The Planning Authority notes the appellant's grounds for appeal and consider that the Planning Report has addressed all salient points.

6.4. **Observations**

- No observations.

7.0 **Assessment**

7.1 The main issues are those raised in the grounds of appeal and it is considered that no other substantive issues arise. Appropriate Assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Impact on Residential Amenities
- Appropriate Assessment

7.2 **Impact on Residential Amenities**

7.2.1 The proposed development comprises an extension to an established restaurant in Wexford Town Centre. The site is zoned 'town centre' and the principle of restaurant use is acceptable under this zoning objective. The purpose of the extension is to provide for the relocation of the existing kitchen from first floor to ground floor level. This is to facilitate the operational requirements of the restaurant and for health and safety reasons. There will be no additional seating provided in the new extension and no intensification of the existing use. The rationale and justification for the proposed extension is reasonable. It will also have the benefit of providing a disabled access to the restaurant.

7.2.2 The appellant's principle concerns relate to potential noise and odour impacts. Whilst it is acknowledged the proposed kitchen extension will be constructed in proximity to the rear boundary wall of their property, I am satisfied that with the installation of an appropriate ventilation and extraction system, that the development will not result in

any adverse odour impacts. With regard to noise, the applicant has clarified that a new concrete wall will be constructed between the proposed kitchen extension and the appellant's property to the west. This will mitigate potential noise impacts. It is considered that the issue of potential noise impacts can further be addressed by way of condition. It is noted that the construction of the extension will reduce the extent of the outdoor seating area in the courtyard and will provide a buffer between the courtyard and the existing dwelling. This will reduce potential noise impacts from patrons dining outside.

7.2.3 A number of concerns have been raised by the appellant regarding the boundary wall between their property and the proposed kitchen extension and that the applicant has no permission to tie the extension into the boundary wall. It is considered that matters regarding a potential boundary dispute is a civil issue and outside the scope of this assessment. The applicant has however, clarified that it is proposed to construct a new concrete wall between the extension and the existing dwelling. The extension will, therefore, not rely on the existing boundary wall to provide structural support to the roof. Issues such as treatment of existing vents and appropriate flashing and waterproofing can be addressed at detailed design and construction stage. Matters such as surface water drainage can be addressed by way of condition and agreed with the Planning Authority.

7.2.4 With regard to car parking, it is noted that the proposed extension is to facilitate the relocation of the existing kitchen and no additional seating is proposed. In this regard, no additional car parking demand will be generated.

7.2.5 In conclusion, the proposed development is to provide a modest extension to an established restaurant use in the town centre area. The extension is considered necessary to ensure the ongoing operation of the restaurant. This is considered desirable from a planning and development perspective as such uses contribute to the viability and vitality of the town centre. I am satisfied that through the imposition of appropriate conditions that the proposed development will not have any adverse impact on the amenities of the adjoining dwelling. The Planning Authority noted some concerns regarding the proposed front boundary treatment of the development and have recommended a condition to address this. This appears reasonable and I recommend a similar condition on the draft order.

7.3 **Appropriate Assessment**

7.3.1 Having regard to the nature and scale of the proposed development, an extension to an existing commercial building within an established and fully serviced urban area, and its distance 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.

8.0 **Recommendation**

8.1. It is recommended that permission be granted subject to conditions for the reasons and considerations set out below.

9.0 **Reasons and Considerations**

9.1. Having regard to the provisions of the current Wexford Town and Environs Development Plan 2013-2019, the location of the site in the established town centre and to the nature and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area. The proposed development would 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 to An Bord Pleanála on the 13th day of December 2017, 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 proposed northern boundary wall shall be finished in stone to match the existing wall. The colour and finish of the proposed new railings and gates shall be submitted and agreed with the Planning Authority prior to the commencement of development.

Reason: In the interests of visual amenity.

3. Details of the materials, colours and textures of all the external finishes to the proposed extension, including the windows and doors, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no further advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the building or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area, and to allow the planning authority to assess any such further signage or advertisements through the statutory planning process.

5. Before commencement of construction, details of the installation and/or erection of any extraction ventilation system, including details of the methods of noise attenuation and treatment of emissions and filters to remove odours, shall be submitted to, and agreed in writing with, the planning authority and have thereafter been installed. Such works shall be operated at all times when the restaurant is in use, and maintained in accordance with the manufacturer's instructions unless otherwise agreed in writing with the planning authority. All extraction ducting shall be vented above eaves level.

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

6. The restaurant shall not be open for business outside of the following hours:-
Monday to Saturday 8.30 a.m. to 12.00 midnight.
Sundays and Bank Holidays 10.00 a.m. to 12.00 midnight.

Reason: In order to protect the residential amenities of property in the vicinity.

7. The outdoor courtyard area shall not be used for eating or drinking after 10.00pm on any day. Details of external lighting of the courtyard shall be submitted to the Planning Authority for agreement prior to the commencement of development.

Reason: In order to protect the residential amenities of property in the vicinity.

8. A plan containing details for the management of waste/recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste/recyclable materials including waste oil and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste/recyclable materials in the interest of protecting the environment.

9. Water supply and drainage arrangements, including the attenuation and 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.

10. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest dwelling shall not exceed:-
- (i) An Leq, 1 hour value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive.
 - (ii) An Leq, 15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component. At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.
- (b) All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.

Reason: To protect the residential amenities of property in the vicinity.

11. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

12. No additional development shall take place on the flat roof area of the extension, including air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

13. 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.

Erika Casey
Senior Planning Inspector

14th February 2018