



An
Bord
Pleanála

Inspector's Report ABP-300186-17

Development

Alterations, refurbishment and extensions to the rear of the Perryville House Hotel, (which is a protected structure). The alterations and extensions include a lift, 12 no. bedrooms, kitchen, utility rooms and all associated site works.

Location

Perryville House Hotel, Long Quay, Kinsale, Co. Cork

Planning Authority

Cork County Council

Planning Authority Reg. Ref.

175658

Applicant(s)

Andrew and Laura Corcoran

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

First Party

Appellant(s)

Andrew and Laura Corcoran

Observer(s)

None

Date of Site Inspection

None required.

Inspector

Fiona Fair

1.0 Site Location and Description

- 1.1. The appeal site (stated 0.1502 ha) is located at Perryville House, Long Quay Kinsale County Cork. Perryville House is a protected structure. It is on the record of National Inventory of Architectural Heritage and within the Architectural Conservation Area (ACA).
- 1.2. It is positioned in a prominent and highly visible part of the street, on the waterfront along Pearse Street / Long Quay, on the edge of the main shopping parade, east of the town centre. The site overlooks the Scilly Dam and Kinsale Harbour. From the opposite side of the harbour the buildings and hillside behind is highly prominent and contributes significantly to the townscape.
- 1.3. Perryville House is served by a single vehicle access point with eight car parking spaces in front of the Quay. The existing guesthouse provides 27 number rooms and has a number of different elements / buildings. Extensive renovations have occurred over the years to improve the guest accommodation.
- 1.4. The main part of Perryville House is a late Georgian building converted into a three storey art-nouveau style mansion in the late 19th century. In addition to the original structure there is also a four storey extension to the rear, a tower building which was re-constructed in the late 1990's and a two storey annex built to the eastern side of Perryville house.

2.0 Proposed Development

- 2.1. The proposal comprises permission for:
 - Alterations, refurbishment and extensions to the rear of the Perryville House Hotel, (which is a protected structure). The alterations and extensions include:
 - A lift,
 - 12 no. bedrooms,

- Kitchen,
- Utility rooms and
 - All associated site works.

3.0 Planning Authority Decision

3.1. Decision

Planning permission was granted subject to 9 number conditions. Conditions pertinent to this appeal include:

C.2 'At least one month before commencing development or at the discretion of the Planning Authority within such further period or periods of time as it may nominate in writing, the developer shall pay a special contribution of **€25938.00** to Cork County Council, updated monthly in accordance with the Consumer Price Index from the date of grant of permission to the date of payment, in respect of specific exceptional costs not covered in the Council's General Contributions Scheme, **in respect of works proposed to be carried out, for the provision of car park spaces.**

The payment of the said contribution shall be subject to the following: - (a) where the works in question— (i) are not commenced within 5 years of the date of payment of the contribution (or final instalment if paid by phased payment), (ii) have commenced but have not been completed within 7 years of the date of payment of the contribution (or final instalment if paid by phased payment), or (iii) where the Council has decided not to proceed with the proposed works or part thereof, the contribution shall, subject to paragraph (b) below, be refunded to the applicant together with any interest which may have accrued over the period while held by the Council. (b) Where under sub-paragraphs (ii) or (iii) of paragraph (a) above, any local authority has incurred expenditure within the required period in respect of a proportion of the works proposed to be carried out, any refund shall be in proportion to those proposed works which have not been carried out. (c) payment of interest at the prevailing interest rate payable by the Council's Treasurer on the Council's

General Account on the contribution or any instalments thereof that have been paid, so long and in so far as it is or they are retained unexpended by the Council.

C3. At least one month before commencing development or at the discretion of the Planning Authority within such further period or periods of time as it may nominate in writing, the developer shall pay a contribution of **€20518.43** to Cork County Council **in respect of public infrastructure and facilities benefiting development in the area** of the Planning Authority. The value of this contribution is calculated in accordance with the Council's Development Contributions Scheme on 1 January 2017, and shall be increased monthly at a rate of 8% per annum in the period between the date on which this value was calculated, and the date of payment'.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Planners Report considers that overall, this revised proposal which will respect the character and setting of the protected structure and streetscape / ACA.

3.2.2. Other Technical Reports

- Conservation Officer: Report subsequent to F.I recommends a Grant subject to conditions.
- Area Engineer: refers to report on previous application Reg. Ref. 16/05777. Notes that the Development Contribution applicable is 'other non- residential' as per the CASP and N&WCSP (Excluding rail corridor)
- Environment Department: No objection subject to condition
- Architects Department. Report prior to F.I. requests Further Information
- Irish Water (IW): No objections
- HSE: No objection

3.3. Prescribed Bodies

- An Taisce: Report received, acknowledges changes to previous application, notes the sensitive location of the building and seeks to be kept informed of any decision made.

3.4. Third Party Observations

Two number of third party objections. Issues raised concerned the lane is 11ft. wide it is not capable of taking construction traffic, hazardous, no provision for additional parking requirements, Perryville House is one of finest buildings, over-intensification, not compatible with the nature of the historic town, previous application was refused, the applicants should accept the decision of the Local Authority on the matter.

4.0 Planning History

- 4.1. **Reg. Ref. 99/22 / PL65.117035** Permission granted for the reconstruction of an existing warehouse (the Tower), hotel accommodation and extension of same to incorporate five bedroom suites.
- 4.2. **Reg. Ref. 00/6 / PL65.119533** Permission refused by ABP for 12 duplex units at Sleaveen, on the raised elevation, to the northern side of the site. The proposal was refused as it represented an extension of accommodation at Perryville House considered overdevelopment in terms of scale/height, visual amenity and traffic hazard.
- 4.3. **Reg. Ref. 26/00 / PL 65.122258** Permission Refused (06/2001) for a two storey extension along the northern side of the internal courtyard due to over intensification of the site and lack of proposals to deal with additional parking and traffic movement requirements generated by the development
- 4.4. **Reg. Ref 07/53038 / PL 65.225761** Permission Refused (05/2008) for works to Perryvale House (protected structure Ref No. 88) to include part demolition of existing building, construction of a 3523m² extension and all ancillary works.

An Bord Pleanála reason for refusal is summarised as follows:

Having regard to the inappropriate scale and design of the development on elevated land at the rear of the site, it is considered that the proposed development would materially and adversely affect the protected structure and its setting, would seriously injure the amenities of the Architectural Conservation Area and would, therefore, be contrary to the proper planning and sustainable development of the area.

- 4.5. **Reg. Ref. 09/53021** Permission Granted in Nov 2010 for works to Perryville House (Protected Structure) to include modifications to the ground floor street frontage of existing 20th century two storey extension onto Pearse St and part of the front boundary wall replaced with new steel metal gates and railing to match existing.
- 4.6. **Reg. Ref. 15/6332** Permission Granted in April 2016 for construction of a contemporary dwelling and associated site works at Sleveen, Kinsale on the curtilage of Perryville.
- 4.7. **Reg. Ref. 16/5977 / PL04.247490** Permission Refused by CCC and ABP (03/2017) to demolish existing extension and construct new extension to hotel (protected structure) and all associated site works. One number reason for refusal summarised as follows:

The proposed development by reason of its overall scale, height and design, would be out of character with its surroundings, would seriously detract from the architectural character and setting of Kinsale and of the streetscape generally. The proposed development would, therefore, materially and adversely affect the character of Perryville House, a Protected Structure, would seriously injure the visual amenities of the Architectural Conservation Area and would be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Section 48 Development Contributions.

The Cork County Council Development Contribution Scheme, 2004 was adopted on 23rd February, 2004 and is intended to operate for a period of twenty years in line with the time periods of the Cork Area Strategic Plan and the North and West Cork

Strategic Plan. The Scheme sets out the basis for the determination of the relevant development contributions whereas Tables G4, G5 & G6 detail the initial rates of contribution applicable in respect of the various classes of infrastructure for specified categories of development within the Cork Area Strategic Plan (CASP) and the North and West Cork Strategic Plan (N&WCSP) areas. Tables G7, G8 and G9 detail the target development contributions.

Inspectors Note: Given that C.3 of the draft decision (17/05658) refers to the Councils Development Contributions Scheme on 1 January 2017 and that the Councils website refers to rates for 2015 scheme, on the 6th February 2018, I requested a copy of the up to date Cork County Council Development Contribution Scheme rates. On the 08th of February Cork County Council submitted the rates for General Development Scheme from 1st January 2014 until further notice. From a comparison of the rates for 2015, as per their website, and the submitted 2014 rates it is evident that the rates have not changed.

The revised Development Contribution Schemes – Rates for 2015 and until further notice, adopted from the 1st January 2015, is therefore, in my opinion, the relevant statutory Contribution Scheme rates, a copy is attached as appendix to this report.

5.2. Development Plan

The operative plan for the area is the Kinsale Town Development Plan 2009
The site falls within the Town Centre zoning and an Architectural Conservation Area

6.0 The Appeal

6.1. Grounds of Appeal

This is a First Party Appeal by Laura and Andrew Corcoran against Conditions 2 and 3, solely, of the Draft Grant of Planning Permission. It is summarised as follows:

- Condition No 2 of this Grant of Permission requires that the developer should pay a 'special contribution' of €25,938.00 to Cork County Council for 'proposed' works to be carried out for the 'provision of car park spaces'.

- Condition No 3 requires a contribution of €20,518.43 to be paid in respect of 'public infrastructure and facilities'.
- We do not believe that these contributions are relevant to this Grant of Permission as it will result in only 4 No additional guest bedrooms, over and above the existing, and a large reduction in public use of the building since the public bar, discotheque and function room were converted to bedrooms.
- The planning history of the Perryville House Hotel is as follows:
 - Redelva Ltd purchased the property in May 1997. The Hotel had 13 guest bedrooms, a public bar, discotheque and function room. The Hotel was extensively refurbished in 1997 and the public bar, discotheque and function room were replaced with an additional 9 bedrooms giving a total of 22 guest bedrooms.
 - There was an appeal to An Bord Pleanala by Kinsale UDC as to whether this change in the property required planning permission. Ref RF0845. The decision by the Bord was that planning permission was not required.
 - In 1999 planning permission was granted for the renovation and re-construction of an existing warehouse, (the Tower), to incorporate 5 No bedroom suites. Planning Ref 22/99. With this Permission we have Planning Permission for 27 Bedrooms. Over recent years the layout has been changed and some of the rooms have been modified . 4 No small bedrooms have been changed into 2 No larger rooms. The Hotel now has 25 No guest bedrooms.
 - The recent planning application, 17 / 05658 is for the renovation of an existing wing which at present has 6 guest bedrooms, and the construction of a new rear extension with 6 No new guest bedrooms. With the Permission the Hotel would have a total of 31 No guest bedrooms.
 - The previous Permissions allow for 27 no bedrooms and with this latest Permission the Hotel would have an extra 4 No guest bedrooms.
 - In 1997 the public bar, discotheque and function room were converted into 9 No bedrooms. This was a significant reduction in the public use of the building. At the time our planning consultant worked out that, in order to

comply with current development plan standards, the following car parking provision would be required:

- Public bar 50 spaces
- Discotheque 60 spaces
- Function room 36 spaces.
- Contend that, having significantly reduced the burden of car parking, and general public use of Perryville house Hotel, we should not have to pay the contributions required by Condition No's 2 and 3 of the Grant of Permission Ref No 17 / 05658.
- Ask that the Bord consider the planning history of the Perryville House Hotel and, in particular, how the building has been modified to reduce the public use of the building, and remove the contribution requirements from the Cork County Council Grant of Permission.

6.2. **Applicant Response**

- None

6.3. **Planning Authority Response**

- No response forthcoming.

6.4. **Observations**

- None

6.5. **Further Responses**

- None

7.0 **Assessment**

- 7.1. This is an appeal made under the provisions of Section 48 (10) (a) and Section 48(13) (a) of the Planning and Development Act 2000, as amended, and therefore

the Board is restricted to considering Condition No.'s 2 and 3 alone and cannot consider the proposed development *de novo*. I have therefore confined my assessment to the conditions that have been appealed.

- 7.2. Condition No 2 of this Grant of Permission requires that the developer should pay a 'special contribution' of €25,938.00 to Cork County Council 'in respect of specific exceptional costs not covered in the Council's General Contribution Scheme, in respect of proposed works to be carried out for the provision of car park spaces'.
- 7.3. Condition No 3 requires a contribution of €20,518.43 to be paid in respect of 'public infrastructure and facilities', as provided for in the council's Development Contributions Scheme, made in accordance with Section 48 of the 2000 Planning and Development Act.
- 7.4. The appellants submit that these contributions are not relevant to this Grant of Permission as it will result in only 4 No additional guest bedrooms, over and above the existing, and a large reduction in public use of the building since the public bar, discotheque and function room were converted to bedrooms. The appeal sets out the planning history of the site dating back to 1997. It is their contention that, having significantly reduced the burden of car parking, and general public use of Perryville house Hotel, they should not have to pay the contributions required by Condition No's 2 and 3 of the Grant of Permission Ref No 17 / 05658.
- 7.5. It is submitted that the previous Permissions allow for 27 no bedrooms and with this latest permission (Reg. Ref. 17/05658) that the Hotel would have, only, an extra 4 No guest bedrooms, totalling 31 rooms.
- 7.6. The first party ask that the Board consider the planning history of the Perryville House Hotel and, in particular, how the building has been modified to reduce the public use of the building, and remove the contribution requirements from the Cork County Council Grant of Permission.
- 7.7. From a review of the Planner's Report (Reg. Ref. 17/5658) it would appear that this special contribution was imposed on the basis of a recommendation made in a report compiled by the Area Engineer (18/08/2017), the Planners Report (23/08/2017) states: 'The local Engineer has no issues other than a special development

contribution for parking which is €4323 per space deficient, based on former Town Council figure, i.e. that would be €25938 in total’.

- 7.8. The area engineers report dated 18/08/2017, in respect of the subject development, refers the area planner to the engineering report on application Reg. Ref. 16/05977, the previous planning application on this site. The report also notes that the Development Contribution applicable is ‘other non- residential’ as per the CASP and N&WCSP (excluding rail corridor). The area engineers report attached to Reg. Ref. 16/05977 / PL04.247490, dated 27/09/2016, see history file attached, clearly states: ‘Generally, there are no engineering issues other than those raise by our Environment Dept. Parking can only be tackled by levies in this instance’. This report also notes that the Development Contribution applicable to the development is ‘other non- residential’ as per the CASP and N&WCSP (excluding rail corridor).
- 7.9. The development has a stated new proposed GFA of 419 sq. m providing for 6 new bedrooms. Regard is had to the first party arguments with respect to planning history of the site and actual increase in number of bedrooms from that already permitted on the site. The permitted 27 number bedroom hotel has 8 number car parking spaces serving it.
- 7.10. The Kinsale Town Plan 2009 – 2015 does not set out standards for car parking. Table 1a Car Parking Requirements for New Development (Maximum per sq. m) of the Cork County Development Plan 2014 sets out: ‘For Hotels & guesthouses (excl public areas)’ - ‘1 per Room + 1 space per 3 staff on duty + public space such as bars and restaurants as per the standards set out in this table’.
- 7.11. Under the adopted Cork County Council Development Contribution Scheme (CCDCS), 2004, (intended to operate for a period of twenty years in line with the time periods of the Cork Area Strategic Plan and the North and West Cork Strategic Plan) it is clearly stated that ‘Car parking shall be charged through Special Contributions, on a per space deficient basis. In a County as large and diverse as Cork, a standard charge is inappropriate, as there are major variations in the cost of providing car parking. The cost of surface parking depends primarily on town/village centre land costs: for instance, car parking provided on land costing €0.25m per acre would cost circa €2,500 per space (including works), but this would rise to circa €7,000 per space on land costing €1m per acre. In a minority of larger towns, multi-level car parking may be necessary, and this would be more expensive again. However, such contributions in respect of car-parking

deficiency levied up to and including 31st August, 2004, shall be at a standard rate as provided for in Appendix 2, Pages 16 and 17, and included in the composite contributions under the General Development Contribution Scheme’.

7.12. The Development Contribution Scheme – Rates for 2015 and until further notice sets out €16.32 per sq. m for ‘Other non- residential uses for CASP and N and WCSP Areas (excl. within 1 Km of rail line)

7.13. I am of the opinion that there is clearly a deficiency in car parking provision to serve a 31 bedroom hotel regard being had to Development plan standards. The change of use highlighted is noted. The applicant has given no evidence that they have previously paid towards or provided car parking on site to date. The CCDCS clearly provides a basis for charging through special contribution on a per space deficient basis. However, on balance, Condition 2 fails to identify / detail the extent and location of the works required, costs incurred or proposed to be incurred has not been presented with relevant calculations, or the apportionment of costs and benefits to the proposed development has not been outlined.

7.14. The planning authority have not responded to the appeal. From the planners report it appears that they have relied upon multiplying the figure of €4323 per space (x6) deficient, based on the now defunct and unsubstantiated ‘former’ Town Council figure to give rise to the special development contribution figure of €25,938.

7.15. Subsection 12 (a) of Section 48 states:

‘Where payment of a special contribution is required in accordance with subsection (2) (c), the following provisions shall apply (a) the condition shall specify the particular works carried out, or proposed to be carried out, by any local authority to which the contribution relates’.

7.16. And subsection 12 (b) of Section 48 further states:

‘Where the works in question (i) are not commenced within 5 years of the date of payment to the authority of the contribution, (ii) have commenced, but have not been completed within 7 years of the date of payment to the authority of the contribution, or (iii) where the local authority decides not to proceed with the proposed works or part thereof. The contribution shall, subject to paragraph (c), be refunded to the

applicant together with any interest that may have accrued over the period while held by the local authority.'

7.17. I note that Paragraph 7.12 of the 'Development Management, Guidelines for Planning Authorities, 2007' states the following:

"Special contribution requirements in respect of a particular development may be imposed under section 48(2)(c) of the Planning Act where specific exceptional costs not covered by a scheme are incurred by a local authority in the provision of public infrastructure and facilities which benefit the proposed development. A condition requiring a special contribution must be amenable to implementation under the terms of Section 48(12) of the Planning Act; therefore, it is essential that the basis for the calculation of the contribution should be explained in the planning decision. This means that it will be necessary to identify the nature/scope of works, the expenditure involved and the basis of the calculation, including how it is apportioned to the particular development".

7.18. It is regrettable that a greater level of detail has not been provided by the Planning Authority in respect of the calculation of the costs associated with the 'works proposed to be carried out, for the provision of car parking spaces.' While I am somewhat unclear as to the origin of the figure used, having regard to (i) the CCDCS 2004 which clearly sets out that car parking shall be charged through special contributions on a per space deficient basis, and taking into account the following: (ii) there is not an oversupply of car parking on site, (iii) it has not been argued that the applicant has provided for or paid towards the cost of car parking previously and (iv) the cost of €4323 per space in Kinsale town would appear reasonable, accordingly, on the basis of the foregoing, it is my opinion that the attachment of Condition No. 2 as a special development contribution meets the requirements of Section 48 of the Act.

7.19. However, I agree with the appellants that this figure should be revised downwards given permission exists for 27 number bedrooms and with this latest permission the hotel would have only an extra 4 number guest rooms. I recommend that 4 new spaces only be charged for i.e. a rate of €17,292.00

- 7.20. **With respect to Condition 3** the first party submit that it should not apply as the development will result in only 4 additional guest bedrooms, over and above the existing and a large reduction in public use of the building since the public bar, discotheque and function room were converted to bedrooms.
- 7.21. I highlight that the Planning and Development Act 2000, as amended, stipulates that no appeal shall lie to An Bord Pleanála in relation to a condition requiring a Development Contribution to be paid in accordance with a Development Contribution Scheme (DCS). However, an appeal may be brought to the Board where the applicant for planning permission considers that the terms of the Scheme have not been properly applied in respect of any condition laid down by the Planning Authority.
- 7.22. The wording of condition 3 and reference to the Councils DCS on 1st January 2017 is noted. It is again regrettable that the planning authority's report does not set out the calculation of the costs, and no response to the appeal has been forthcoming. I note that the DCS – rates for 2015, for 'other non-residential uses for CASP and N&WCSP (excluding rail corridor)' an applicable rate of €16.32 per sq. m. The stated GFA of proposed works is 419 sq. m, from my calculations therefore, this would give rise to a development contribution of €6,838.08
- 7.23. Accordingly, on the basis of the foregoing, it is my opinion that the attachment of Condition No. 3 requiring a payment of €20,518.43 to Cork County Council in respect of public infrastructure and facilities benefiting development in the area of the planning authority while it accords with the CCDCS 2015 and thereby meet the requirements of Section 48 of the Act should be amended.
- 7.24. The information provided by the Planning Authority to date is insufficient to justify the imposition of a general development contribution of €20,518.43 on the proposed development, no calculations have been provided and therefore I recommend that the cost should be amended downwards to €6,838.08

8.0 Recommendation

- 8.1. On the basis of the foregoing I consider that the Planning Authority is correct in its disposition of the Special Development Contribution and the General Development Contribution, however they have erred in the costs apportioned, therefore, it is my

recommendation that the Planning Authority should be directed accordingly to **Amend** Condition No. 2 and Condition 3 for the reasons and considerations set out hereunder:

9.0 Reasons and Considerations

1. The Board considered that the items imposed under condition number 2. [€25,938.00 (twenty-five thousand nine hundred and thirty-eight euro)] as a special development contribution towards the costs of works proposed to be carried out, for the provision of car parking spaces while it accords with the provisions of section 48(2)(c) of the Planning and Development Act, 2000, as it is in accordance with the terms of the Cork County Council Development Contribution Scheme, should be amended downwards to €17,292.00

2. The Board considered that the items imposed under condition number 3. [€20,518.43 (twenty thousand five hundred and eighteen euro forty-three cents)] as a development contribution towards the costs of public infrastructure and facilities benefiting development in the area of the planning authority while it accords with the provisions of section 48(10)(b) of the Planning and Development Act, 2000 as it is in accordance with the terms of the Cork County Council Development Contribution Scheme should be amended downwards to €6,838.08 to reflect the Development Contribution Scheme rates, 'Other non-residential uses', set out in the 2015 Scheme.

Fiona Fair
Planning Inspector
20/02/2018