



An
Bord
Pleanála

Inspector's Report ABP-302817-18

Development	Construction of residential development.
Location	4/5 Lower O'Connell St. Town Plots, Kinsale, Co. Cork
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	18/6043.
Applicant(s)	Joal Developments Ltd.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellant(s)	Joal Developments Ltd.
Observer(s)	David & Angela Doyle
Date of Site Inspection	6 th December 2017
Inspector	Fiona Fair.

1.0 Site Location and Description

- 1.1. The application site (stated area of 0.581ha) is located to the south of Kinsale town in County Cork, on the western side of Lower O'Connell Street. It is situated just behind the main Pier Road in Kinsale Town and offers water views from the upper level. The site is rectangular in shape and relatively level.
- 1.2. The site currently hosts a late C19th / early C20th detached two storey house (currently vacant) and out building. The site has frontage onto Lower O'Connell Street. The rear boundary is a tall rock face with the adjoining property to the rear located significantly above the site and accessed from the Ramparts. The Ramparts run parallel to Lower O'Connell Street at a higher level. The appeal site is bounded to the south by a vacant workshop building and by an existing residential dwelling to the north. The house is isolated from the buildings on either side by yard areas enclosed with a mix of rendered masonry wall, sheet metal gates and railings.
- 1.3. O'Connell Street / Lower O'Connell Street is located within an ACA and comprises of mixed residential and commercial development. The buildings are predominantly two and three storey in height. The subject site is visible at a distance from Pier Road, through the Leisure centre car park.

2.0 Proposed Development

2.1.1. Permission for demolition of:

- Existing detached dwelling (81m²) and rear domestic shed and wall,

Construction of:

- Residential development which includes a lift and access stair-core,
- 1 no. 2 storey dwelling,
- 2 no. 2 bedroom apartment units at first floor,
- 2 no. 2 bedroom apartment units at second floor and
- 1 no. 3 bedroom apartment on the third floor level and
- Bike storage and bin storage at ground level,
- Ground level on-site surface car parking for 12 cars,

- All associated site works

Residential development of 1 dwelling and 5 apartments over three storeys. The site is within the Architectural Conservation Area. The existing house is not a protected structure or on the National Inventory of Architectural Heritage.

2.1.2. The application is accompanied with:

- A Preliminary Architectural Heritage Assessment
- Design Statement
- Structural Report
- Infrastructure Planning Report

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Planning permission refused. The reasons for refusal are set out as follows:

1. The existing house a late 19 century dwelling is in fair and original condition (albeit with reversible alterations) it positively contributes to the character and appearance of the Architectural Conservation Area from various and important vantage points in the immediate and wider surrounds - the demolition of this structure would therefore materially conflict with Policy Objectives ACA 1 and ACA 2 in the Kinsale Town Development Plan 2009 as it seeks to protect all buildings which are inherent part of the streetscape which contribute to the areas heritage, diversity and history.

2. The proposed development by virtue of its scale, mass, height, design and external finishes including an unsuitable 'dead' ground level frontage will not lead to successful renewal of Lower O'Connell Street and shall not conserve or enhance the character or appearance of the Architectural Conservation Area, and therefore conflicts with Policy Objectives ACA 2 and TCEP 11 in the Kinsale Town Development Plan 2009, which seeks to achieve a high standard of urban design.

3.2. Planning Authority Reports

3.2.1. Planning Reports: Planners Primary Report concludes: 'The current dwelling is a good example of a late C19 heritage dwelling and is substantially intact. Though it is only in fair condition, and has been altered, it still commands a prominent position and performs an important role in the historic core of the town centre and central part of Architectural Conservation Area; being visible from various locations. Demolition of the dwelling would be unacceptable. Regardless of demolition, the new build represents over-development in terms of its relationship with the street, on the character and setting of the ACA. It will neither enhance nor preserve the character of the ACA at this location. These matters are so serious and significant they cannot be solved through revised plans or further information. Despite the high standard of living accommodation proposed this leaves no option but to refuse this particular proposal. It would be good to see a high quality more sympathetic development, i.e. conservation-led approach at this location. The site lends itself to 2 town house(s) type buildings – plus a restored house. This is clearly not what the applicant envisages'.

3.2.2. Other Technical Reports

- Conservation Officer: Refusal of permission recommended.
- Architect Report: Refusal of permission is recommended. It states the scale and proportion of the development is out-of scale relative to the width of the street and will detract from the character of the ACA.
- Estates Engineer: The report from the Estates Engineer requests further information on proposals for maintenance and management of the completed development.
- Area Engineers Report: No Objection
- Lighting Engineer requires the applicant to upgrade the street lighting along the street.
- Archaeologist Report: Further information required.

3.3. **Prescribed Bodies**

- Inland Fisheries Ireland (IFI): No objection

3.4. **Third Party Observations**

Two number of third party objections were submitted to the planning authority. A summary of the issues raised and considered is set out in the planners report on file. Issues raised include, not exclusively, those set out below;

- Negative impact on residential amenities,
- Concern with respect to balcony at 4th floor level
- Overlooking - directly overlook ground and gardens,
- Scale and design is inappropriate
- Negative Impact on Conservation Area,
- Over development / serious intensification,
- Noise Impacts
- Discrepancies between site boundary and encroachment,
- Excavation works could potentially undermine or cause damage to adjoining building, 2 No. windows on north elevation would be affected.
- Lack of information on the servicing and operation of the proposed development.
- Negative visual impact when viewed from Pier Road and Kinsale Harbour

4.0 **Planning History**

- 4.1.1. None

5.0 **Policy Context**

- 5.1.1. Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2015

- 5.1.2. Design Manual for Urban Roads and Streets (DMURS), 2013
- 5.1.3. Architectural Heritage Protection Guidelines for Planning Authorities (2011)

5.2. **Development Plan**

- 5.2.1. The relevant statutory Plan governing the appeal site is the Kinsale Town Development Plan (KTDP) 2009 and the Cork County Development Plan 2014 - 2020.
- 5.2.2. The site is zoned TC 4 'Established town centre' incorporating mixed used development in keeping with the unique character of the area, in the KTDP 2009. The zoning objective is 'to protect, preserve, enhance and develop the special physical and social character of the existing town centre, to support appropriate infill development, use of upper floors for residential and other uses and to provide for new and improved ancillary services.'
- 5.2.3. The site is also within the Architectural Conservation Area (ACA). The existing house is not a protected structure nor is it on the National Inventory of Architectural Heritage.
- 5.2.4. Policy Objective RPS3 in the KTDP encourages appropriate reuse, renovation and rehabilitation of older building's which are not listed, but have some architectural, historical or heritage merit, subject to development standards at Section 7.
- 5.2.5. Policy Objective ACA2 in the KTDP states proposed development within or adjacent to conservation areas will only be permitted if it would conserve or enhance the character or appearance of the area. The demolition of non-listed buildings will be granted within the ACA if they do not contribute positively to the character or appearance of the ACA.
- 5.2.6. Policy Objective TCEP11 supports the renewal of Lower O'Connell Street.
- 5.2.7. CDP Objective HOU 3-2: Urban Design:
- 5.2.8. The site is situated within an ACA. CDP Objective HE 4-5 which seeks to preserve and enhance the special character of ACA's is of relevance.

5.3. **Natural Heritage Designations**

5.3.1. The site is located within 15 Km of the proposed site;

- Special Protection Areas: Sovereign Islands SPA (004124) is located 5.6 Km to the south east of Kinsale
- Special Protection Areas: Old Head of Kinsale SPA (004021) is located 9.6 Km to the south of Kinsale
- Special Protection Areas: Courtmacsherry Bay SPA (004219) is located 11.5Km to the south west
- Special Protection Areas: Seven Heads SPA (004191) is located 12 Km to the south west

5.4. **Environmental Impact Assessment (EIA)**

5.4.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The existing buildings contribution to the architectural conservation area has been over estimated and the proposed redevelopment is in accordance with local and National Planning Policy

- The appeal site has been vacant for a considerable period of time and is unsightly.
- The preliminary architectural heritage assessment prepared by Davis Kelly Partnership and Structural Report prepared by Desmond Consulting which accompanied the application were disregarded by the p.a.

- Report concludes that the house is of low architectural heritage significance, as a late 19th century / early 20th century house of unremarkable design.
 - The house is in poor condition with dampness evident throughout.
 - It is not feasible to renovate and adapt the existing building to comply with modern standards.
 - There is a need to demolish the existing building to enable a re-development of the site.
- Evidence submitted demonstrates that it is not feasible to renovate the existing dwelling
 - The P.A's view that the existing structure plays a 'meaningful heritage role' overstates the architectural value of the building.
 - The building is not a protected structure or is not included in the NIAH
 - Precedent set by a recent grant of planning permission of a development at Ferryview House, Kinsale (PL04.248314) is of significance.
 - Accept that there are differences in terms of scale between both developments. However, it is submitted that there is similarity in terms of the principle of the demolition of an old building in poor repair.
 - The NPF and the Urban Development Building Heights Guidelines for Planning Authorities (Consultation draft), place increased importance on the requirement to maximise infill redevelopment opportunities.

The scale, mass and design of the proposed development is appropriate and in accordance with local and national objectives.

- Paragraph 8.3.6 of the KTDP with respect to infill housing is of relevance.
- The proposed building has been architecturally and sympathetically designed.
- The scale, mass, height and design and external finishes proposed are sympathetic to the site's location within an ACA
- The P.A. have not sufficiently considered the design statement

- The Planners report states: 'It is an impossible situation for any Architect to come up with an acceptable design for the amount of development – if all parking must be provided on site'.
- Contest that the proposed design results in 26m of dead street frontage
- Submit that the proposal reflects a significant improvement in the current condition of the existing site frontage which is unsightly and greatly detracts from the character of the street.

Appeal accompanied with:

- A note by David Reid on reason number 1 for refusal relating to the impact on the ACA
 - The existing detached house does not reflect the architectural styles evident in the adjoining area, which is characterised by steep roofs, often with gables to the street.
 - The alternative approach of retention of the house and infilling either side with similar houses, each of differing widths would not reinstate a former terrace as the house never formed part of one.
 - While it is accepted that the demolition of the house does involve loss of late C19th historic fabric, albeit of limited intrinsic value, this must be balanced against the benefit to be achieved by the rehabilitation of the site, the completion of the streetscape and the contribution to a diversity of accommodation.

6.2. Planning Authority Response

Response received refers to a pre- planning meeting which took place in November 2017.

- Notes indicate that the feedback was negative.

7.0 Assessment

- **Principle of the Proposed Development**
- **Design, Scale, Massing and Visual Impact**
- **Impact Upon Architectural Conservation Area (ACA)**
- **Appropriate Assessment (AA)**

7.1. Principle of the Proposed Development

- 7.1.1. The site is zoned TC 4 'Established town centre' incorporating mixed used development in keeping with the unique character of the area, in the Kinsale Town Development Plan 2009 (KTDP 2009). The zoning objective is 'to protect, preserve, enhance and develop the special physical and social character of the existing town centre, to support appropriate infill development, use of upper floors for residential and other uses and to provide for new and improved ancillary services.'
- 7.1.2. The existing unoccupied dwelling on site is not a protected structure nor is it on the National Inventory of Architectural Heritage. The site is, however, within the Architectural Conservation Area (ACA) for Kinsale.
- 7.1.3. The building on site is described, in the Preliminary Architectural Heritage Assessment' report, submitted in support of the application, as a late C19th / early C20th detached house of unremarkable design, missing its original external joinery and other details. The house is described as a conventional two-storey dwelling with plain external finishes and modern PVC external joinery within the historic core of the town. It is submitted that the house is of low architectural significance because of its lack of good quality design or construction details and internal finishes. It is also submitted that the site is of architectural significance due to its location in the streetscape.
- 7.1.4. The Structural Report submitted in support of the application concludes that it is not feasible to renovate and adapt the existing building to comply with modern standards and there is a need to demolish the existing building to enable a re-development of the site.

- 7.1.5. The planning authority have clearly outlined that from a planning, architectural / architectural heritage perspective that demolition of the existing building is not considered appropriate on the basis that it contributes to the character of the ACA. The conservation officers report sets out that the existing building is considered a historic structure. The building retains its identifiable historic features, incl. a simple rectangular form, pitched slate roof with gables, chimney to each gable and a symmetrical three bay fenestration layout.
- 7.1.6. The architects report sets out that while the structure on site may be architecturally unremarkable when examined in isolation, it equally represents a valuable fragment of the towns collective urban and cultural fabric. It is submitted that its unassuming status in conjunction with the un-built side of the lane apposite helps to create a sense of respite between the busy confluence of Higher O'Connell Street and Market Quay directly to the north and the narrow, confined space of Lower O'Connell Street as it leads away to the south.
- 7.1.7. It is a stated goal in the statutory Development Plan KTDP, 2009: 'to protect the special character of the designated ACA in Kinsale and to ensure that future development will enhance this character and contribute to the creation of a distinctive sense of place.'
- 7.1.8. Policy Objective ACA1 in the KTDP seeks to protect all buildings, structures and sites which are an inherent part of the streetscape and which contribute to the Plan area's heritage, diversity and history. Policy Objective ACA2 in the KTDP states 'proposed development within or adjacent to conservation areas will only be permitted if it would conserve or enhance the character or appearance of the area. The demolition of non-listed buildings will be granted within the ACA if they do not contribute positively to the character or appearance of the ACA'.
- 7.1.9. It is acknowledged that Policy Objective RPS3 in the KTDP encourages appropriate reuse, renovation and rehabilitation of older building's which are not listed, but have some architectural, historical or heritage merit, subject to development standards at Section 7. Policy TCEP11 of the Plan aims to 'Support the renewal of Lower O'Connell Street'. Paragraph 8.3.6 of the Plan promotes the provision of infill housing projects in the town subject to normal planning considerations'. Regarding the development of infill housing Policy IH1 of the Plan: seeks to 'encourage infill

housing developments on appropriate sites where the proposals respect the existing scale and character of the area.’

- 7.1.10. Regard being had to the foregoing while residential use is considered to be acceptable at this location, there are concerns about demolition and the appropriateness of the development proposal.
- 7.1.11. I note the planning authority’s position that there is potential for redevelopment. That the site lends itself to two town house (s) type buildings – plus a restored house.
- 7.1.12. Having considered the conservation officers and architect’s departments reports on file in conjunction with the planning reports I am of the considered opinion that the planning authority have acted reasonably, I agree that while the principle of development on the site is acceptable that abolition of the existing dwelling would detract from the character of the streetscape and ACA and would ultimately erode the character of the town in deference to its economic exploitation. I consider that in principle demolition of the dwelling would be unacceptable.
- 7.1.13. I agree that it would be preferable to see a more sympathetic conservation-led approach to redevelopment of this site. The suitability of proposed design and Impact Upon the ACA is discussed further, in detail, below.

7.2. Design, Scale, Massing and Visual Impact

- 7.2.1. The appeal site is situated on Lower O’Connell Street, it is agreed by the first party and the planning authority, that the appeal site commands a prominent position and performs an important role in the historic core of the town centre and central part of the ACA; being visible from various locations. The proposed development proposes a mix of 5 number 2 bedroom apartments and one number 3 bedroom apartment, in 3 no. blocks ranging in height from 3/4 storeys, the development makes provision for 12 number car parking spaces.
- 7.2.2. The design rationale for the proposed development states; it is proposed to provide 3 no. blocks ranging in height from 3/4 storeys. The proposed height of the blocks is more complimentary of the adjacent buildings and the existing streetscape along Lower O’Connell Street than the existing building on the site. The form of the proposed development will contribute to appropriate massing and frontage onto the

street which will enhance the visual appearance and architectural integrity of the ACA.

- 7.2.3. It is the opinion of the Councils Architect that ‘the proposed development is unsympathetic and insensitive. It affronts the street. It makes tokenistic reference to existing patterns of development in plan but obliterates those same patterns in scale and massing’.
- 7.2.4. I note that the second draft reason for refusal by the planning authority considers that the proposed development by virtue of its scale, mass, height, design and external finishes including an unsuitable 'dead' ground level frontage will not lead to successful renewal of Lower O'Connell Street and shall not conserve or enhance the character or appearance of the Architectural Conservation Area, and therefore conflicts with Policy Objectives ACA 2 and TCEP 11 in the Kinsale Town Development Plan 2009, which seeks to achieve a high standard of urban design.
- 7.2.5. I highlight that policy Objectives ACA 2 sets out: ‘Proposed development within or adjacent to conservation areas will only be permitted if it would conserve or enhance the character or appearance of the area. The demolition of non-listed buildings will be granted within the ACA if they do not contribute positively to the character or appearance of the ACA’.
- 7.2.6. Policy TCEP 11 seeks to: ‘Support the renewal of Lower O'Connell Street’.
- 7.2.7. Having considered the plans and drawings, the photomontages, assessments and design statement submitted I agree with the planning authority that the design, size and scale of the proposed development on a restricted site, in a visible location, centrally located within Kinsale and within the ACA is inappropriate and visually jarring. I agree that the development, inappropriately overhangs the street, is bursting at the seams’, and if permitted, would give rise to an advanced ‘dead’ building line along the streetscape. Its proposed finishes, height, level of site coverage / density and the bulk of the development is in complete contrast to all other properties along the street and would, if permitted, be an unsightly intrusion to its setting, and not in keeping with the zoning objectives.

7.3. Impact Upon the Architectural Conservation Area (ACA)

- 7.3.1. The site is situated centrally within an area designated an Architectural Conservation area (ACA) in the KTDP 2009.
- 7.3.2. The goal for ACA's set out in the KTDP 2009 is: 'To protect the special character of the designated Architectural Conservation Area in Kinsale and to ensure that future development will enhance this character and contribute to the creation of a distinctive sense of place.'
- 7.3.3. The states objectives for the ACA is:
1. 'To conserve, restore and rehabilitate the existing building stock in the area.
 2. To ensure that all proposed developments are carried out in a manner sympathetic to the special character of the area.
 3. To ensure a high standard of urban design within Architectural Conservation Areas (ACAs).'
- 7.3.4. The existing dwelling on the site is visible and prominent in the street from different angles. The planning authority consider it plays an important role in the immediate character of the ACA at this location. It is the opinion of the planning officer, the architect's department and the conservation officer that permission be refused on the basis that the development would have a negative impact upon the character of the ACA.
- 7.3.5. I note in particular, the Conservation officers report which supports restoration of the existing structure rather than its demolition. The report states: 'Having reviewed the proposed building. I consider that it consists of a series of punctuated boxes that has no relationship to, regard for or respect of the established character of the built environment, in terms of layout, scale, massing, design and finishes. The building has no context it reads as a structure that has been designed independently and as a result of which fails to identify and understand and therefore relate to its urban context and the character of the same.'
- 7.3.6. The first draft reason for refusal by the planning authority considers that the existing house a late 19 century dwelling is in fair and original condition (albeit with reversible alterations) it positively contributes to the character and appearance of the

Architectural Conservation Area from various and important vantage points in the immediate and wider surrounds - the demolition of this structure would therefore materially conflict with Policy Objectives ACA 1 and ACA 2 in the Kinsale Town Development Plan 2009 as it seeks to protect all buildings which are an inherent part of the streetscape and which contribute to the areas heritage, diversity and history.

- 7.3.7. Again, I note 'ACA1' which seeks 'to protect all buildings, structures and sites which are an inherent part of the streetscape and which contribute to the Plan area's heritage, diversity and history...' and
- 7.3.8. 'ACA2' which requires that 'proposed development within or adjacent to conservation areas will only be permitted if it would conserve or enhance the character or appearance of the area...'
- 7.3.9. The first party cite a recent grant of planning permission by an Bord Pleanála on foot of PL04.248314 (grant date 25/09/2017) at Ferryview House, Kinsale to be of significance and setting a precedent. The proposal was granted on appeal after initial refusal by the p.a. on grounds of loss of historic structure, scale and design. While it is accepted by the first party that there are differences in terms of scale between both developments, it is submitted that the precedent in terms of the principle of the demolition of an old building in poor repair and where the p.a. and applicants disagree over its cultural significance and contribution to the streetscape is valid and noteworthy.
- 7.3.10. I note that in the case of PL04.248314 'Ferryview House' albeit it was included on the NIAH as being of 'Regional' importance, by reason of its architectural and technical qualities, and that it makes a positive contribution to the overall historic character of the wider area, in light of its overall design and prominent positioning, it was not designated a Protected Structure in the Record of Protected Structures for Kinsale Town. The site is also not located within the ACA of Kinsale.
- 7.3.11. The planning authority considers that the case bears no resemblance to the subject appeal case as it related to a ruinous dwelling, located within a residential area outside of the ACA.
- 7.3.12. Overall, I tend to agree with the planning authority that the existing dwelling plays a meaningful heritage role within the street, by virtue of its authenticity and distinctiveness as an intact, genuine and simple C19 town house. This character

together with its setting on the street is valuable. It is important to retain this structure within the ACA and core of Kinsale.

- 7.3.13. New development should take account of the sensitivities of the ACA to ensure its visual appeal and attractiveness is not damaged or compromised. I consider that the proposed development would have a negative impact upon the character of the ACA. I believe that the planning authority's decision is justified and reasonable as the replacement structure would not significantly enhance the special character of the area more than the retention of the original structure.

7.4. Appropriate Assessment (AA)

- 7.4.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest Natura 2000 sites. 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

- 8.1.1. I recommend that the decision of the planning authority be upheld and planning permission be Refused for the proposed development.

9.0 Reasons and Considerations

1. The existing house a late 19 century dwelling is in fair and original condition (albeit with reversible alterations) it positively contributes to the character and appearance of the Architectural Conservation Area from various and important vantage points in the immediate and wider surrounds - the demolition of this structure would therefore materially conflict with Policy Objectives ACA 1 and ACA 2 in the Kinsale Town Development Plan 2009 as it seeks to protect all buildings which are inherently part of the streetscape which contribute to the areas heritage, diversity and history.

2. The proposed development by virtue of its scale, mass, height, design and external finishes including an unsuitable 'dead' ground level frontage will not lead to successful renewal of Lower O'Connell Street and shall not conserve or enhance the character or appearance of the Architectural Conservation Area, and therefore conflicts with Policy Objectives ACA 2 and TCEP 11 in the Kinsale Town Development Plan 2009, which seeks to achieve a high standard of urban design.

Fiona Fair

Planning Inspector

14.02.2019