



An  
Bord  
Pleanála

## Inspector's Report ABP-305037-19

---

<b>Development</b>	Refurbishment and part re-building of existing derelict car house building for use as keg room, kitchen, and office.  External beer garden/seating area with new rear pub access and associated development works.
<b>Location</b>	The Swans Bar, Longford Bridge, Bruff, Co. Limerick.
<b>Planning Authority</b>	Limerick City and County Council
<b>Planning Authority Reg. Ref.</b>	19/215
<b>Applicant(s)</b>	Paddy Hayes
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant, subject to 12 conditions
<b>Type of Appeal</b>	Third Party -v- Decision
<b>Appellant(s)</b>	Brian & Monica Bonar
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	24 <sup>th</sup> October 2019

**Inspector**

Hugh D. Morrison

# Contents

1.0 Site Location and Description .....	4
2.0 Proposed Development .....	4
3.0 Planning Authority Decision .....	5
3.1. Decision .....	5
3.2. Planning Authority Reports .....	5
4.0 Planning History.....	6
5.0 Policy and Context.....	7
5.1. Development Plan.....	7
5.2. Natural Heritage Designations .....	7
5.3. EIA Screening .....	7
6.0 The Appeal .....	7
6.1. Grounds of Appeal .....	7
6.2. Applicant Response .....	9
6.3. Planning Authority Response .....	10
6.4. Observations.....	10
6.5. Further Responses.....	10
7.0 Assessment.....	11
8.0 Recommendation.....	15
9.0 Reasons and Considerations.....	16
10.0 Conditions .....	16

## 2.0 Site Location and Description

- 2.1. The site is located to the south of Limerick City, e.g. 12.2 km to the south of Junction 29 between the M7 and the N24. The settlements of Ballyneety and Bruff are located, variously, 6.7 km to the north and 7.2 km to the south. This site lies within a row of one-off dwelling houses that are on the western side of the R514 and to the south of the Camoge River. The surrounding area is composed mainly of farmland with some woodland, to the east, beyond the said River.
- 2.2. The site itself is of regular shape and it extends over an area of 0.35 hectares. This site has a frontage of almost 54m with the regional road. The main single storey dormer building and attached single storey buildings are sited in a row adjacent to this road and fronting onto it. The main building comprises the Swans Bar and an associated dwelling house and the ancillary buildings are also comprised in this public house.
- 2.3. The front door to the dwelling house and the two front doors to the public house are off the regional road. There is also a vehicular door to the northern lean-to ancillary building, which is used as a keg room, off this road and a pedestrian door in its exposed side elevation. The Bar is further served by a side door in the northern side elevation of the main building which is accessed off the car park to the rear of the ancillary buildings. The entrance to/exit from this car park is to the north of the lean-to building.
- 2.4. The northern boundary to the site/car park is with the appellants' residential property. This boundary is denoted by means of a well-maintained hedgerow. Elsewhere, the front boundary is open to the roadside and the southern and western boundaries are denoted by, variously, a wall and hedging.

## 3.0 Proposed Development

- 3.1. As originally submitted, the proposal would have comprised the following elements:
  - The Refurbishment and part re-building of the existing lean-to ancillary building for use as a keg room, kitchen, and office.
  - The construction within the space enclosed by the main dormer building and the ancillary buildings (the lean-to building projects further to the rear than the

other ancillary building), of a covered lobby and a covered smoking area in conjunction with the insertion of new pedestrian doors into the public house. The lobby and the smoking area would be accompanied by an external beer garden/seating area to the rear of the lean-to building and adjoining a projecting wall from this building.

- An existing store within the ancillary building would be converted, in conjunction with the proposed new pedestrian doors, to bar space with a new stage area.

The existing floorspace of the public house is stated as being 130.25 sqm and the proposed covered and external areas would be 60.56 sqm.

- 3.2. At the appeal stage, the applicant has revised his plans to show the retention of the lean-to building as a keg room only. The proposed pedestrian doors would be inserted into a new porch and the proposed covered lobby and beer garden would be reconfigured as external seating areas. A smoking shelter would be sited beside the side door to the main building. The existing store within the ancillary building would be retained as such, i.e. the new stage area is omitted.

## 4.0 **Planning Authority Decision**

### 4.1. **Decision**

Following receipt of further information, permission granted subject to 12 conditions, including the following four:

- Only 2 parallel parking spaces to be allowed to the front of the premises and these should not interfere with sightlines,
- The car park to be surfaced in a bituminous layer and formally laid,
- The site entrance to be formalised, and
- The outdoor seating area is not to be used as an outdoor music area.

### 4.2. **Planning Authority Reports**

#### 4.2.1. Planning Reports

The following further information was sought:

- Hours of operation of proposed outdoor seating area and proposed noise mitigation measures.
- Define site access/egress, show car park, and specify bituminous finish.
- Demonstrate availability of sightlines and forward visibility, i.e. 2.4m x 160m.
- On-site drainage arrangements to be inspected and reported upon. The scope for any needed upgrades should be assessed.
- Lighting plan.
- Comprehensive landscape plan.
- The extent of the covered smoking area would not comply with the relevant legislation.
- Respond to third parties.

#### 4.2.2. Other Technical Reports

- HSE (Environmental Health): Commentary on proposal provided.
- Limerick City & County Council:
  - Fire Officer: No objection.
  - Engineering: Further information requested, following receipt no further commentary provided.

## 5.0 Planning History

- 92/1251: Renovations and extension to existing licenced premises, installation of septic tank, car park and ancillary site works: Permitted.
- 93/0333: Extension and alterations to existing licenced premises and ancillary ground works: Permitted.
- Pre-application consultation was held on 21<sup>st</sup> November 2018.

## 6.0 Policy and Context

### 6.1. Development Plan

Under the Limerick County Development Plan 2010 – 2016 (CDP), the site is shown as lying within a rural area. Objective ED025 addresses the expansion of existing industrial or business enterprises in the countryside. It states the following:

*It is the objective of the Council to normally permit development proposals for the expansion of existing industrial or business enterprises in the countryside where:*

- a) the resultant development is of a size and scale which remains appropriate and which does not negatively impact on the character and amenity of the surrounding area; and*
- b) the proposal demonstrates that it has taken into account traffic, public health, environmental and amenity considerations and is in accordance with the policies, requirements and guidance contained in this plan.*

### 6.2. Natural Heritage Designations

Glen Bog SAC and pNHA (site code 001430)

### 6.3. EIA Screening

The the proposal is not of a type of development that would potentially be the subject of EIA, as it would not come within the ambit of any of the types of development set out under Part 1 and 2 of Schedule 5 to Article 93 of the Planning and Development Regulations 2001 – 2018. Accordingly, the possibility of it being sub-threshold for the purposes of EIA does not arise.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

Brian & Monica Bonar of Ballingoola, Grange, Co. Limerick

The appellants begin by expressing their concern over a recent upturn in activity at The Swans Bar, which has resulted in noise and disturbance at anti-social hours. They are thus concerned that the current proposal would facilitate an intensification in usage that is already problematic.

The appellants seek to maintain a good relationship with the applicant, but this has been put under strain by the aforementioned activity, which has persisted, and which is presently the subject of a complaint to LCCC's Environmental Health.

The appellants cite the following grounds of appeal:

- Inaccurate and mis-leading description of development:

The northern portion of the existing public house has recently been demolished. Demolition constitutes development and yet permission for the same has not been granted. Thus, to develop further this public house, as proposed, would be to do so on the basis of unauthorised development and so permission should be withheld.

- Material contravention of the CDP:

Under the proposal as permitted all vehicular traffic would be directed to the rear of the public house and the entrance to the same would be via its modified rear elevation, which would be accompanied by an outdoor seating and smoking area. A kitchen and stage suggest that food would be served, and music would be played.

In the light of the above, the operational dynamic of the public house would change from the front to the rear with adverse implications for residential amenity.

No details have been submitted with respect to the structure that would serve the proposed smoking area in tandem with the proposed outdoor seating area.

The appellants dwelling house lies c. 30m to the NW of the said areas and their southern boundary would be c. 10m away.

Attention is drawn to Objective ED025 of the CDP, which addresses the expansion of business premises in the countryside. The appellants accept that a traditional rural public house has existed on the subject site for many years.



Their concern is that the intensification of usage, which would be facilitated by the current proposal, while it may represent a response to consumer demand, should not be construed as overriding their existing amenity.

The existing problem of noise referred to above has been tracked by the appellants and so they have submitted average and maximum noise readings from mainly late night/early morning activities on the subject site. This problem is thereby illustrated. Thus, for example, while ambient evening noise is 37 dB, incidences of 54 dB resulting from activities at the public house exceed both the commonly accepted threshold of 45 dB and the addition of 10db over the ambient level, which is the normal test for significance.

The applicant has not proposed any noise mitigation measures and the appellants consider that any condition concerning the same may not be complied with. They, thus, conclude that the proposal would materially contravene the above cited Objective ED025.

- Inability to provide sufficient site visibility display to facilitate the proposal:

The proposal would result in an increase in traffic in attendance at the site and yet the requisite northern sightline at the egress would encroach on the appellants' property. They have not given their consent for this encroachment and the clearance of vegetation that it would entail.

- Deficiency in waste water infrastructure to facilitate the proposal:

The applicant's revised proposal to have a kitchen/food preparation area without a sink is unrealistic in terms of efficiency and public health. Whether any inevitable increased loading on the waste water system would be feasible is unclear.

## 7.2. Applicant Response

The applicant has responded to the appellants' concerns by omitting the following aspects of the proposal: the covered provision of the external seating and, internally, the proposed stage, kitchen, and office. A revised ground floor plan has thus been submitted, which shows an external seating and beer garden area, traditional style entrance porch/pub front, and smoking shelter.

The applicant has also responded to the above cited grounds of appeal as follows:

- The gable wall of the keg room partially collapsed, due to storm damage, and it was subsequently rebuilt. Thus, the building was not demolished and so the need for planning permission did not arise.
- The scaled back proposal would not lead to an intensification of use but would simply enhance the existing licenced premises. These premises have a tradition of music playing and story telling that spans two centuries. Under the current proposal, there was never any intention that these activities would be held outside

The noise readings recorded by the appellants are consistent with the use of the car park. In a bid to ensure that noise is minimised, the applicant has recently posted a notice requesting the same.

- The applicant insists that the necessary sightlines are available at the egress from the site and he draw attention to the absence of any geometric drawing from the appellants illustrating their contention to the contrary.
- Under the proposal revised at the appeal stage, the kitchen has been omitted and so no additional loading of the waste water system would ensue.

### **7.3. Planning Authority Response**

None

### **7.4. Observations**

None

### **7.5. Further Responses**

The appellants have responded to the applicant's response as follows:

- They insist that their noise readings do not simply reflect car movements, but loud conversations in the car park, too.
- That the applicant has modified his proposal is an acknowledgement of the potential for an adverse impact upon the appellants' amenities. That said,

these modifications would fail to ease such potential. In this respect, the omission of the proposed covering from external seating is the only substantive modification, i.e. external seating would remain as originally proposed. Likewise, the re-siting of the main entrance to the public house from the front to the rear elevation would ensure that an intensification in the use of the car park to the rear of this public house would occur, the very space within which heightened noise is already impacting upon the appellants' amenities.

- The applicant has failed to address the issue of the northern sightline from the egress to his site. The appellants have submitted a Land Registry extract that shows their property as extending to the edge of the adjoining carriageway. They have not given their consent for a visibility splay to encroach upon their property and they have not given any undertaking that the needed space would remain unobstructed. In these circumstances, there is no onus upon the appellants' to submit plans illustrating the said encroachment and the availability of the needed splay cannot be guaranteed by the applicant.

## 8.0 **Assessment**

8.1. I have reviewed the proposal in the light of the CDP, relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Legalities,
- (ii) Amenity,
- (iii) Traffic and access,
- (iv) Water, and
- (v) Stage 1 Screening for AA.

### **(i) Legalities**

8.2. The appellants draw attention to the ancillary building, which they state was demolished and rebuilt without planning permission. Insofar as the current proposal pertains to this building, then it relates to an unauthorised structure and so further works to it would be untenable without first regularising its planning status.

- 8.3. The applicant has responded by stating that the exposed side elevation of the ancillary building collapsed into the adjoining roofless lean-to building, as result of storm damage. This elevation was subsequently rebuilt. Thus, demolition of the building concerned did not take place, only the rebuilding of the collapsed gabled side wall. The need for planning permission did not therefore arise and so this building is not unauthorised. Accordingly, there is a sound planning baseline for the current proposal.
- 8.4. The appellants also draw attention to the absence of details concerning the proposed external proposals for the site, i.e. the structures that would be entailed in the covered areas.
- 8.5. I note that, as revised by the applicant, the proposal now omits the said covered areas, except for a smoking shelter. I note, too, that fixed seating is now proposed. The siting of these items is shown on drawing no. 2018.JF-003 revision B and so it is evident that they would “fit” within the semi-enclosed space to the rear of the ancillary building. They would thus be modest in scale and ancillary to the use of the public house. I, therefore, consider that it would be appropriate to attach a condition to any planning permission requiring submission of the missing details.
- 8.6. I conclude that there are no legal impediments to the Board proceeding to assess and determine the current application/appeal in the normal manner.

**(ii) Amenity**

- 8.7. The appellants reside in the nearest dwelling house to the north west of the Swans Bar. They express concern over the intensification in use of the public house that the proposal would give rise to. Their concern is prompted by their recent experience of noise emanating from the car park to the public house at anti-social hours. The appellants have taken noise readings and they state that these readings reflect not only vehicular movements but raised voices. (This issue is presently the subject of a noise complaint to LCCC’s Environmental Health). They are concerned that with intensification would come an exacerbation in the existing noise issue and that the applicant may not undertake any mitigation.
- 8.8. The applicant responds by challenging the appellants’ contention that intensification would arise. Instead, he considers that the revised proposal would simply enhance

the existing public house. Thus, for example, the tradition of storytelling and music in the Swans Bar would continue without any recourse to holding events outside.

- 8.9. The applicant also challenges the applicant's noise readings insofar as the levels recorded are consistent with usage of the car park. Nevertheless, he has recently posted a notice requesting that patrons minimise noise within the car park.
- 8.10. During my site visit, I observed the juxtaposition of the public house and the appellants' dwelling house and the presence of a mature well-managed hedgerow along the common boundary between these two adjoining properties. Clearly, while the Swans Bar has been in existence longer than the said dwelling house, both properties have co-existed for a considerable number of years.
- 8.11. Under the revised proposal, an existing pedestrian door to the rear car park would be augmented by a porch and main pedestrian entrance to the public house. Adjacent to this entrance would be an outdoor seating area, including a smoking shelter, that would be "slotted into" an enclosed space that already exists to the rear/side of the ancillary buildings on site. Where this seating area would be more exposed to the car park, a screen and hedgerow would be erected/planted.
- 8.12. I consider that the external spaces thus envisaged would be ancillary in their use to that of the public house. The smoking shelter would simply provide a covered space for patrons who, presumably, already smoke outside. The external seating would provide the option for patrons to sit outside on fine days. I, therefore, do not consider that these limited measures would be likely to lead to a significant intensification in the use of the public house.
- 8.13. During my site visit, I observed that the main pedestrian entrances to the public house are at the front of the row of buildings and hence by the roadside. There is limited scope for parking to the front and so I anticipate that what space there is is utilised for dropping off and collecting with the more secure car parking spaces to the rear being used for parking.
- 8.14. From a user's perspective, the proposed main pedestrian entrance to the rear would facilitate dropping off and collecting away from the regional road and so it would be inherently safer. I consider that some increase in vehicular movements within the car park would occur thereby, although these movements would be likely to be small in number compared with overall vehicular movements within this car park.

- 8.15. The Planning Authority's draft permission is subject to two conditions that would have a bearing on noise. Thus, condition 5 is a precautionary one, insofar as it forbids outdoor music, and condition 3 requires that the car park, which is presently surfaced in hardcore, should be tarmaced. These measures would, variously, prohibit a potential noise nuisance, and reduce noise resulting from vehicular movements in the car park.
- 8.16. In the light of the above discussion, I consider that noise resulting from the increased usage of the car park would be offset by the quieter surface that condition 3 would secure. I, therefore, do not accept the appellants further contention that the proposal would materially contravene Objective ED025 of the CDP, which refers to the expansion of businesses in the countryside and the need for amenity considerations to pertain to the same.
- 8.17. I conclude that, subject to the conditions pertaining to noise, the proposal would be compatible with the amenities of the area.

**(iii) Traffic and access**

- 8.18. As noted above, the proposal could reasonably be expected to lead to an increase in the usage of the car park to the rear of the public house. The entrance/exit to this car park is in the north eastern corner of the site, between the lean-to ancillary building and hedgerow along the common boundary with the appellants' residential property to the north.
- 8.19. Under further information, the applicant submitted plans showing sightlines accompanying the exit from the car park with x and y dimensions of 2.4m and 160m, respectively. Notwithstanding these plans, the appellants state that the northern sightline would encroach on their property and they have not given their consent to the needed removal of vegetation that its achievement would entail.
- 8.20. During my site visit, I observed that the frontage of the appellants' property is accompanied by a hard shoulder to the regional road, the presence of which facilitates the availability of the said northern sightline. The only impediment to visibility over this hard shoulder is the presence of a utility pole. Under condition 12, this pole would be required to be re-sited in a position clear of the sightline. The entrance/exit to the site should also be formally laid out.

- 8.21. With respect to the southern sightline, the applicant's plans show the introduction of a no parking zone in front of the ancillary buildings to ensure that parked vehicles do not obstruct visibility. Under condition 3, in the interest of further ensuring good visibility, this zone would be extended southwards to leave only 2 spaces in front of the dormer building.
- 8.22. I conclude that, subject to the re-siting of a utility pole and the introduction of an extended no parking zone, the exit to the car park could be used in a manner consistent with road safety.

#### **(iv) Water**

- 8.23. The Swans Bar is served by a group water scheme. Waste and surface water drainage are managed by means of a conventional septic tank system and a soakaway. Under the proposal, these services would continue to be utilised.
- 8.24. The appellants question the capacity of the conventional septic tank system to cope with additional waste water arising from the use of the food preparation area. However, under the revised proposal, this preparation area has been omitted.
- 8.25. Under the OPW's flood maps, the site is not the subject of any identified flood risk.

#### **(v) Stage 1 Screening for AA**

- 8.26. The site is neither in nor near to any Natura 2000 sites. I am not aware of any source/pathway/receptor route between this site and these sites in the wider area. I, therefore, consider that it is not likely that the proposal would have any significant effect upon the Conservation Objectives of such sites.
- 8.27. Having regard to the nature and scale of the proposal and proximity to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposal would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **9.0 Recommendation**

- 9.1. That permission be granted.

## 10.0 Reasons and Considerations

Having regard to the Limerick County Development Plan 2010 – 2016, it is considered that, subject to conditions, the revised proposal would be compatible with the amenities of the area and that the use of the site entrance/exit to the existing car park would be capable of being undertaken in a manner consistent with road safety. No Appropriate Assessment issues would arise. The proposal would thus accord with the proper planning and sustainable development of the area.

## 11.0 Conditions

1.	<p>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 12<sup>th</sup> day of June 2019 and by the further plans and particulars received by An Bord Pleanála on the 26<sup>th</sup> day of August 2019, 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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The proposed development shall be amended as follows:</p> <p>(a) The no parking zone in front of the existing buildings shall be extended southwards, to leave only 2 parallel car parking spaces.</p> <p>(b) Signage directing drivers to use the car park to the rear of the public house.</p> <p>(c) A revised layout of the car park showing parallel car parking spaces with a length of 6m and the formalisation of the existing entrance/exit.</p> <p>(d) Details of the proposed smoking shelter and the external seating area, including the seating and the screen.</p> <p>Revised drawings showing compliance with these requirements shall be</p>



	<p>submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interests of road safety, the efficient use of car parking spaces, and visual amenity.</p>
3.	<p>Prior to the commencement of use of the porch and external seating area, the car park as shown on the submitted plans and revised in accordance with condition 2(c) above, shall be provided with a sealed surface and formally laid out. Likewise, the no parking area to the front of the site shall be formally laid out in accordance with condition 2(a) above.</p> <p><b>Reason:</b> In the interests of the efficient use of car parking spaces, residential amenity, and road safety.</p>
4.	<p>Prior to the commencement of use of the porch and external seating area, the utility pole adjacent to the entrance/exit to the car park shall be re-sited to a position behind the hard shoulder to the regional road.</p> <p><b>Reason:</b> In the interest of road safety.</p>
5.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public safety.</p>
6.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
7.	<p>Neither the external seating area nor the car park shall be used as a venue for playing music and any relaying of music from the public house to these areas shall not occur.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the</p>

	vicinity.
--	-----------

---

Hugh D. Morrison  
Planning Inspector

15<sup>th</sup> November 2019