



An
Bord
Pleanála

Inspector's Report ABP-306052-19.

Development

Permission for the change of use of the former Golf Shop to provide a Coffee Shop and external seating area. The application site comprises an area of c0.03ha. A number of protected Structures exist at Mount Juliet Estate, however no works are proposed to these structures.

Location

Mount Juliet Estate, Thomastown, Co. Kilkenny.

Planning Authority

Kilkenny County Council.

Planning Authority Reg. Ref.

19/437.

Applicant(s)

MJBE Investments 3 Ltd.

Type of Application

Permission.

Planning Authority Decision

Grant with Conditions.

Type of Appeal

Third Party

Appellant(s)

Brian Coleman.

Observer(s)

Mary Quigley.

Date of Site Inspection

20/02/2020.

Inspector

A. Considine.

1.0 Site Location and Description

- 1.1. The subject site lies within the wider grounds of the Mount Juliet Estate, approximately 10km to the south of Kilkenny City and 2.5km to the west of Thomastown. Mount Juliet Estate is an historic demesne with numerous buildings of architectural heritage merit set within a mature parkland setting. Mount Juliet House is a Georgian Mansion built in the 1760s and is located to the east of the Estate on a hill overlooking the River Nore. Mount Juliet House is occupied as a Golf and Spa Hotel, and the wider estate has been developed to provide for a parkland golf course and variety of out buildings, paths and roadways, residential buildings and homes. Access to the site are off the Local County Road L4206 or off the L4202 via Ballylinch Stud.
- 1.2. The area of the subject site is located within the Hunters Yard area which lies to the south of the Estate and is located approximately 300m from Mount Juliet House. The Hunters Yard area of the Estate comprises the hotel and the Club House associated with the golf course. The main car parking for the hotel and golf course lies to the south west of the subject site.
- 1.3. The area the subject of this appeal was formerly used as the golf shop and on the date of my inspection, it was closed and empty. The Golf Shop has been relocated to the Club House following the construction of a new clubhouse. The unit lies to the south of the entrance to the hotel building and across the courtyard from the Clubhouse, which overlooks the course. The unit has a stated floor area of 157.7m².

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for permission for the change of use of the former Golf Shop to provide a Coffee Shop and external seating area at Hunter's Yard, Mount Juliet Estate, Thomastown, Co. Kilkenny. The application site comprises an area of c0.03ha. A number of protected Structures exist at Mount Juliet Estate (including Refs. C367; D24, C1021, C1022, C1023) however no works are proposed to these structures.
- 2.2. The application included a number of supporting documents including as follows;
 - Plans, particulars and completed planning application form

- Planning Report

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant planning permission for the proposed development subject to 7 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, planning history and the County Development Plan policies and objectives. The report does not include an Appropriate Assessment Screening Report, but notes that no significant impact is likely having regard to the nature and scale of the proposed development and the distance of the subject site from the Natura 2000 sites.

The initial Planning Report concludes that further information is required in relation to the development in terms of the provision of car parking spaces.

Following the submission of a response to the FI request, the final planning report notes that the proposed provision of outdoor seating associated with the café has been reduced and that the existing car park provides for 207 spaces. It is also accepted that the parking spaces are dual usage, providing for the golf club, the hotel accommodation, the restaurant and the function room. The report concludes that the café will not cause any undue negative impact on the eateries within Thomastown or its surrounds and that proposed development is acceptable. The Planning Officer recommends that permission be granted for the proposed development, subject to 7 conditions.

3.2.2. Other Technical Reports

Conservation Officer: No objection.

3.2.3. Prescribed Bodies

HSE: No objection subject to compliance with conditions.

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3.2.4. Third Party Submissions

There is 1 no. third party objection/submission noted on the planning authority file.

The issues raised are summarised as follows:

- Mount Juliet Estate is already served with various cafes and restaurant type facilities which serve the needs of residents, members and visitors.
- The proposed café would have an alarming negative impact on similar café restaurant type businesses in nearby towns and villages such as Thomastown, Kells and Stoneyford which serve the local communities and tourists.
- A further café would attract additional visitors to the Estate who would otherwise have no reason to visit.
- The former golf shop was permitted as part of the recreational facilities associated with the spa.
- The café will exacerbate congestion in the existing car parks.
- There has been no consultation by the owners over the large scale café proposal with the residents.
- There has been significant unauthorised development that has taken place around the Estate. No further development should be considered until all of these have been regularised.

4.0 Planning History

PA ref P15/6: Permission granted for: Demolition of a single storey cabin (c.139 sqm (Gross Floor Area(GFA)) and provision of a new golf clubhouse including bar, pro shop, changing areas and bag store (c.654 sqm GFA); Alterations to Hunters Yard including alterations to hotel building, bars, restaurants and leisure centre include internal rearrangement of Hunters Yard to provide for 3 No. meeting rooms (replacing golf shop now relocated to new clubhouse) and the rearrangement of the existing car park layout to the west of Hunters Yard.

As noted above, permission was granted for the change of use of the former golf shop for use as 3 meeting rooms. The meeting room use has not been implemented.

PA ref P16/486: Permission granted for modifications to Hunters Yard including alterations and omissions to previously approved Hotel development (Plan Ref No. 15/6). This grant of permission included permission for the change of use of the former golf shop to be used as part of an extension to the Spa area. This permission has not been implemented.

5.0 Policy and Context

5.1. Development Plan

5.1.1. The Kilkenny County Development Plan, 2014-2020 is the relevant policy document in relation to the subject site. Section 7.9.5 of the Plan deals with the Mount Juliet Area Action Plan. The Area Action Plan aims to facilitate appropriate development in a manner which respects the sensitive nature of the landscape, heritage and environmental attributes of the estate and seeks to ensure their protection and enhancement. The Plan identifies both permissible uses and uses open for consideration.

5.1.2. Mount Juliet Development Management Standards:

- To protect and enhance the Protected Structure, its curtilage and attendant grounds and woodlands. To protect and enhance existing landscape, ecological, water quality and other environmental amenities and in particular to provide for the protection of the River Nore (designated cSAC and SPA).
- To provide for the maintenance and enhancement of tourism, sporting, leisure and related uses, and of existing agricultural and equestrian lands and buildings in an area of sensitive landscape.
- To protect the residential amenity of existing dwellings.

Permissible uses/ developments:

- Equestrian, sport and leisure facilities.
- Stores, machinery storage/repair & office uses related to maintenance of estate lands.

Uses open for consideration:

- Temporary tented or other temporary enclosures.

5.1.3. Table 7.2 of the Plan outlines the Site Specific Development Management Standards for Mount Juliet which includes the following:

6 & 7	To provide for the enhancement and development of tourism, leisure and recreational facilities and related activities at appropriate locations within the estate, including the Hunters Yard and the Walled Garden, without detracting from the estate's built and natural heritage.
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5.1.4. There are a number of structures on the Record of Protected Structures at Mount Juliet Estate (including Refs. C367; D24, C1021, C1022, C1023). The works have not affected the protected structures.

5.1.5. Designed landscape

Mount Juliet is recognised as a designed landscape and is included in the National Inventory of Architectural Heritage Historic Gardens and designed Landscape, reference KK-67-S-552418.

5.2. Natural Heritage Designations

Mount Juliet Estate is located within and adjacent to the River Nore and River Barrow Special Area of Conservation, Site Code 002162, and River Nore Special Protection Area, Site Code 00233. The area relating to this appeal is not located within either of the Natura 2000 sites, being approximately 320m from the boundary of the SAC.

5.3. EIA Screening

Having regard to nature and scale of the development, together with the brownfield nature of the site, 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

This is a third party appeal against the decision of the Planning Authority to grant planning permission for the proposed development. The issues raised are similar to those raised at the PA assessment stage of the application and are summarised as follows:

- Permission was granted, but not implemented, for the former golf shop to provide an extension to the spa. This would have added to the facilities for members, hotel guests and residents.
- Meeting rooms would have been ancillary to the main recreational use and would not have generated additional traffic.
- The café will attract additional visitors who currently support fragile local businesses in nearby towns and villages. It will not be restricted to members and residents and therefore parking must be considered.
- There have been developments at the hotel, including increased bedrooms, without additional car parking provided. With the proposed development, and a requirement of 8 spaces, there will be a minimum shortfall of 22 car parking spaces in a car park which is currently at overcapacity.
- Inadequate car parking is a major health and safety concern and the situation goes unaddressed and photographs are submitted showing cars parked on the road verges.
- Taken in conjunction with the unauthorised removal of the putting course, the reduction of indoor leisure facilities to facilitate the proposed café further waters down the leisure and tourism offer of the Estate.
- Providing a commercial development without parking puts pressure on circulation roads and residents private parking to the detriment of residential amenity.
- Issues raised that there is no unauthorised development enforcement file open in relation to the removal of the putting course, the use of the paddock

adjacent to the 10th tee which was used as a hard-surface site compound during the hotel extension works and has never been restored and is used as an overflow car parking without permission. There have been more recent complaints which have not been addressed.

- The provision of a café is not essential to the leisure and tourism offer of the estate.
- The Board has refused permission for houses on the estate where the applicant failed to demonstrate that the housing was to provide for the estates' tourism, leisure and recreational functions. No case has been made for the café.
- Issues raised in terms of access to existing facilities for residents.

There are a number of enclosures with the appeal including photographs and a copy of a letter sent to the PA on the 26th August 2019 making a complaint in relation to a number of matters.

6.2. Applicant Response

The first party submitted a response to the third-party appeal. The submission is summarised as follows:

- It is considered that all issues raised in the appeal have been fully addressed in the planning application documentation and within the response to the RFI.
- Issues raised relating to alleged unauthorised development and development elsewhere in the Estate are not relevant to the current planning application.
- Any matters of alleged unauthorised development are a matter for the Planning Authority under their enforcement powers, and not a matter for the Board.
- In terms of car parking, the Board will note that the planning permission was granted for the golf clubhouse which included a golf shop.
- The proposed planning application seeks to change the use of a vacant retail unit to provide a café. The parking requirements for both uses are the same,

being 1 car space per 20m² gross floor area. There is, therefore, no requirement to provide additional parking spaces for the change of use.

- The permitted parking at Hunters Yard provides for multi-use when assessing parking needs and parking in the vicinity of the application site is carefully managed.
- The proposed café will be located within a vacant retail unit and will not result in the loss of any leisure facility. The café will help address access to other facilities on site and the loss of a vacant retail unit will significantly improve the leisure and tourism facilities of the estate.
- The applicant strongly disagrees with the third-party assumption that the proposed café will attract additional visitors to the Estate that were not going there in the first instance. The proposed café will support the day to day function of hotel and golf course. In addition, there is no evidence to support this claim.
- The scale of the café is considered entirely appropriate to serve the hotel and golf club and will not have a detrimental impact on local businesses.
- The proposal complies with the policies in the CDP relating to Mount Juliet to protect and improve amenities and recreational amenity facilities.
- With regard to the issue raised in relation to consultation, it is submitted that the applicant has ongoing consultations with homeowners in relation to development within the Estate.
- Given that there is only 1 objection to the development it is considered that the overwhelming majority of residents have no objection to the proposed scheme. The proposed development will benefit residents of the Estate.

6.3. Planning Authority Response

The Planning Authority submitted a response to the third-party appeal advising no further observations.

6.4. Observations

There is 1 valid observation submitted on behalf of the Mount Juliet Estate Residents Group in support of the third-party appeal submitted by Mr. B. Coleman. It is submitted that as a group, the residents endorse all the grounds of appeal. In terms of unauthorised development, the observation wishes to advise the Board that currently 12 car parking spaces are being removed without permission to the rear of the new club house. This appears to be to install a drop off location for the clubhouse and hotel. The loss of an additional 12 parking spaces will exacerbate the already intolerable parking situation which the café / restaurant will entail.

7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development & Compliance with the County Development Plan & General Development Standards
2. Roads & Traffic
3. Other Issues
4. Appropriate Assessment

7.1. Principle of the development & Compliance with the County Development Plan & General Development Standards

- 7.1.1. In terms of the principle of the development, the Board will note that permission is sought for the change of use of the former Golf Shop to a coffee shop. The works will also include changes to the fenestration of the existing building, which is currently vacant and with a floor area of 157.7m². The proposed development initially proposed that tables and chairs would be placed within the hard stand / landscaped

area to the front of the building which would have resulted in the loss of the landscaped area.

- 7.1.2. The most recent planning permission associated with this building provided for an extension of the existing spa area under PA ref P16/486. This element of the permission was not implemented and the building remains vacant.
- 7.1.3. Section 7.9.5 of the Kilkenny County Development Plan deals with the Mount Juliet Estate and includes an Area Action Plan for the Estate. The Area Action Plan aims to facilitate appropriate development in a manner which respects the sensitive nature of the landscape, heritage and environmental attributes of the estate and seeks to ensure their protection and enhancement. Table 7.2 of the Plan outlines the Site Specific Development Management Standards for Mount Juliet which includes the following:

6 & 7	To provide for the enhancement and development of tourism, leisure and recreational facilities and related activities at appropriate locations within the estate, including the Hunters Yard and the Walled Garden, without detracting from the estate's built and natural heritage.
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- 7.1.4. In terms of the above, and in the context of the wider development on the estate, and notwithstanding the comments of the appellant in this case, I am generally satisfied that the proposed use of the space as a café / restaurant can be considered acceptable in principle. Such a use is not incompatible with the objectives for the Mount Juliet Estate, will, in my opinion, enhance the tourism, leisure and recreational facilities within the Estate and will not impact on the existing viability or vitality of businesses in the towns and villages in the wider area.

7.2. Roads & Traffic

- 7.2.1. The appellant has raised a number of concerns in terms of roads and traffic issues in relation to the operation of the Estate, and in particular, in terms of car parking. It is submitted that there is already a shortfall in car parking provided on the estate for the level of development there. It is further submitted, with photographic evidence to support the concern, that on days where a number of events occur, cars are parked along the estate roads and is a health and safety concern in terms of other users of the roads, including pedestrians and horses.

7.2.2. While I acknowledge the concerns raised, together with the photographic evidence submitted to the Board, I note that the Estate has generally provided car parking in accordance with the requirements of the Kilkenny County Development Plan. I do note that there is a shortfall of 7 spaces in order to fully comply with the County Development Plan but would also accept the submission of the applicant that the car park at Hunters Yard provides for multi-use parking needs. In addition, I note that the parking requirements for the previous use as a retail unit is equal to the requirements associated with a café use. While events held at Mount Juliet may impact on car parking from time to time, I am generally satisfied that overall, the proposed development is acceptable in the context of traffic safety.

7.3. **Other Issues**

7.3.1. **Issues raised in the Third Party Appeal**

The Board will note the concerns raised in the appeal regarding unauthorised developments within the estate as well as the expectation of residents of the Estate that access to existing facilities, including existing restaurants on the Estate, are essentially an entitlement of ownership of property on the Estate. It is further submitted that the applicant has not consulted with the residents, who amount to their target market, as to their wants.

While I acknowledge the concerns, and indeed the frustrations, of the appellant and observer associated with this appeal, I would note that enforcement issues are a matter for the Planning Authority. In addition, issues arising in terms of access to facilities on the Estate are not a planning matter.

7.3.2. **Visual Impacts**

The Board will note that following a request for further information, the applicant has reduced the proposed area to provide external seating. The amendment will result in the retention of the existing landscaping features outside the subject building, which I consider appropriate. In the event of a grant of planning permission, a specific condition in this regard should be included.

The proposed development will involve alterations to the fenestration of the building and I have no objections in this regard. Overall, the proposed development will have

little impact in terms of the visual amenity of the buildings within the Hunters Yard area of the Estate.

7.3.1. Development Contribution

Having regard to the planning history associated with the subject building, having been occupied as a retail unit, I am satisfied that the subject development is not liable to pay development contribution in this instance.

7.3.2. Appropriate Assessment

Mount Juliet Estate is located within and adjacent to the River Nore and River Barrow Special Area of Conservation, Site Code 002162, and River Nore Special Protection Area, Site Code 00233. The area relating to this appeal is not located within either of the Natura 2000 sites, being approximately 320m from the boundary of the SAC. The area comprises an existing building and whereby, if permitted, the development will not result in any works to virgin ground.

Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the 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

I recommend that planning permission be granted for the proposed development for the following stated reason and subject to the following stated conditions.

9.0 Reasons and Considerations

Having regard to the pattern of permitted development in the area, to the provisions of the Kilkenny County Development Plan 2014-2020, and to the information submitted with the application, the Board considered that, subject to compliance with the conditions set out below, the proposed development would be compatible with

the wider existing uses of the hotel and golf club at Mount Juliet Estate, would not seriously injure the residential or visual amenities of adjoining residential properties and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 9th day of October, 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.

Reason: In the interest of clarity.

2. 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. 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 and recreational amenities of property in the vicinity.

3. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice

Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

4. Prior to the commencement of any development on the site, full details of any proposed signage for the coffee shop shall be submitted for the written agreement of the Planning Authority.

Reason: In the interests of visual amenity.

5. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no change of use of the coffee shop shall occur unless authorised by a further grant of planning permission.

Reason: In the interests of clarity and the proper planning and sustainable development of the area.

A. Considine

Planning Inspector

3rd March, 2020