



An
Bord
Pleanála

Inspector's Report

ABP-306054-19

Development	Change of use from crèche to offices, modifications to the rear facade, and all associated ancillary site development works.
Location	The former St. Joseph's Convent of Mercy, Town-Plots, The Ramparts, Kinsale, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	19/6224
Applicant(s)	Cumnor Construction Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party V. Refusal
Appellant(s)	Cumnor Construction Limited
Observer(s)	None
Date of Site Inspection	7 th February 2020
Inspector	Elaine Power

1.0 Site Location and Description

- 1.1. The subject site is located on 'The Ramparts' approx. 250m west of the town centre of Kinsale. The appeal site relates to the ground floor and mezzanine levels of a former chapel within the St. Joseph's Convent complex.
- 1.2. The existing building forms part of the Convent Gardens residential scheme which was approved under parent permission PL65.211819, Reg Ref. 04.53026. It fronts directly onto The Ramparts and is bound to the east and west by existing convent / school buildings. The appeal site has a gross floor area of 344sqm. Permission was previously granted for apartments within the remaining portions of the existing building.
- 1.3. To date no restoration works have been carried out to the former chapel or the adjoining convent / school buildings.

2.0 Proposed Development

- 2.1. The proposed development comprises the change of use of a previously approved creche located within part of a former chapel to an office use. A creche within the chapel of the former convent was approved under an amendment permission 14/6792.
- 2.2. The ground floor would comprise an reception area, meeting room, kitchen facilities and 12 no. office desk spaces. The mezzanine level would accommodate 21 no. additional office desk spaces and a meeting room. Public access to the site would be from The Ramparts. An outdoor area for staff is provided to the rear of the building.
- 2.3. The proposed office would provide a shared workspace to individuals, start-ups and other small offices located within the Kinsale area.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the following reason:

1. The justification in the Planning Statement referring to an over supply of childcare places in the Kinsale area does not reflect analysis or consultations with Cork County Childcare Committee or with the largest full day care facility in Kinsale (Little Rascals Creche and Montessori) which does not have 44 spare spaces available. The information available to the Planner is that there is no spare capacity in the Kinsale area, thus the proposed change of use to offices would materially contravene with Policy Objective HCSR4 in the Kinsale Town Plan 2009 and National guidelines which requires one childcare facility accommodating 20 children for approximately 75 dwellings. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

3.2.1. ***Planning Reports***

The reports by the Area Planner and the Senior Executive Planner raised concerns regarding the loss of the proposed childcare spaces and recommended that permission be refused for the reason outlined above.

3.2.2. ***Other Technical Reports***

Area Engineer's report: No objection

3.3. **Prescribed Bodies**

Irish Water. No objection

3.4. **Third Party Observations**

None

4.0 **Planning History**

PL65.211819, Reg Ref. 04.53026: Permission was granted in 2006 for the redevelopment of St. Joseph's Convent and the conversion of convent school and

church buildings to provide 79 no. apartments, 94 no. houses, a gym and all associated siteworks

Reg. Ref. 14/6792: Permission was granted in 2015 for modification to the parent permission for the construction of 47 no. residential units, a creche (20 no. childcare places) and all ancillary works. The alterations would reduce the overall number of residential units permitted on the St. Joseph's Convent site from 158 no. to 96 no. units.

PL04 .301194, Reg. Ref. 17/7332: Permission was granted in 2018 for modifications to the existing convent building and all ancillary site development works. The works consisted of the development of 18 no. apartments, minor modifications to the facade and the addition of balconies to 7 no. permitted apartments under Reg. Ref. 14/6792. The proposed development would reduce the total number of apartments originally permitted by PL65. 211819, Reg. Ref. 04/53026 from 38 to 31 units.

5.0 Policy Context

5.1. Kinsale Town Plan, 2009 (as extended)

The subject site is located in an area zoned 'Established Residential' with the associated land use objective *to protect, preserve, enhance and develop existing residential areas, to support appropriate infill residential development, to provide new and improved ancillary community, social and recreational facilities.*

Policy Objective HCSR4: - *To require the provision of childcare facilities in accordance with the national guidelines for childcare facilities. The indicative standard is one childcare facility, accommodating 20 children, for approximately 75 dwellings. This standard may be modified in any particular case where there are significant reasons for doing so. Criteria that may be taken into account in such an assessment include the existing geographical distribution of childcare facilities and the emerging demographic profile of the area.*

CP1 - *To seek the provision of Childcare facilities and places in accordance with The Childcare Facilities Guidelines for Local Authorities 2001 (DoEHLG).*

CP2 - *To encourage the provision of childcare facilities in all major residential developments, workplaces, large retail outlets, educational facilities and health and social outlets, where appropriate, in a sustainable manner compatible with land use and transportation policies.*

The site is also located within an Architectural Conservation Area with following objectives: -

- 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.*

'The Ramparts' is a designated Amenity Walk and the site is located within a zone of Archaeological Potential.

5.2. Cork County Development Plan, 2014

Section 5.3 Childcare of the plan states that the provision of Childcare facilities is a key component of social infrastructure integral to national economic and social wellbeing. The following policies are considered relevant: -

SC 3-1: Childcare Facilities: *Support and facilitate the sustainable provision of childcare facilities in appropriate locations and seek their provision concurrent with development, having regard to population targets for the area and in accordance with the Guidelines on Childcare Facilities and the Childcare (Pre School Services) Regulations 2006.*

SC 4-1: Educational Facilities: *Facilitate the provision of educational services in the community such as schools, crèches and other educational and childcare facilities. Multiuse facilities which can accommodate both educational and childcare facilities are also encouraged.*

5.3. **National Planning Framework:**

National Policy Objective 31: Prioritise the alignment of targeted and planning employment growth with investment in: The provision of childcare facilities and new and refurbished schools on well-located sites within or close to built-up areas, that meet the diverse needs of local populations

5.4. **National Guidance**

- Childcare Facilities – Guidelines for Planning Authorities 2001
- Circular Letter PL 3/2016

5.5. **Natural Heritage Designations**

There are no relevant designated areas in the immediate vicinity of the site.

5.6. **EIA Screening**

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any 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. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

This is a first party appeal against the Planning Authority's decision to refuse permission. The submission addresses the reason for refusal and is summarised below: -

- A summary of the planning history for the overall St. Joseph's Convent complex has been provided. It is noted that since the original application it has been difficult to find an appropriate long-term use for the chapel building.

- During pre-planning discussions with the planning authority and during the assessment of the application no concerns were raised regarding the change of use to office use, however, it was considered that a justification for the loss of the creche facility had not been provided. The applicant undertook an initial assessment of creche facilities which indicated that there was capacity. It is considered that further information should have been sought from the planning authority and permission should not of been refused.
- The applicants carried out a survey of creches in the Kinsale area during the week of 25th November 2019, which is included in an appendix with the appeal. The survey found that there are 25 full time creche spaces available in Kinsale. It is noted that additional spaces would be available in September 2020.
- 2 no. additional creches have been permitted as part of larger residential schemes granted in Kinsale Manor and Abbeyfort. An extension to and existing facility has also been approved. These facilities would provide additional 115 no. spaces within the Kinsale area.
- The previously approved creche has capacity for 20 no. children. There is difficulty finding an operator for creche due to its limited size.
- In response to concerns raised in the Area Engineers report the applicant has stated that it is not intended to provide any car parking for the office use. The site is located approx. 250 from the town centre. It is considered that the offices would serve the locality. It is not anticipated that it would attract commuting from outside Kinsale. The applicant is happy to submit a mobility management plan to the local authority, if necessary.
- The proposed change of use would provide an opportunity for more sustainable lifestyle by providing working and living spaces within the development.

6.2. Planning Authority Response

None

7.0 Assessment

7.1. The main issues relate to reason for refusal. Car parking and Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Principle of Development
- Car Parking
- Appropriate Assessment

7.2. *Principle of Development*

- 7.2.1. The appeal site is located in an area zoned 'Established Residential' within the Kinsale Town Development Plan, 2009 (as extended) with the associated land use objective '*to protect, preserve, enhance and develop existing residential areas, to support appropriate infill residential development, to provide new and improved ancillary community, social and recreational facilities*'. The zoning objective does not restrict office use and is, therefore, open for consideration.
- 7.2.2. It is proposed to change the use of a previously approved creche to office use. It is noted that the existing building is vacant and that no restoration or construction works have begun on the former chapel or adjoining convent / school buildings, which front directly onto The Ramparts. Permission was previously granted (parent permission PL65.211819, Reg Ref. 04.53026) for the remaining portion of the chapel to be converted to apartments.
- 7.2.3. The proposed office would accommodate 33 no. desk spaces over the ground and mezzanine floor levels. It is envisioned that the development would provide a shared workspace to individuals, start-ups and other small offices already located within the Kinsale area. Having regard to the zoning objective of the site, and the sites location within an existing building I have no objection in principle the proposed change of use and considered that it should be assessed on its merits.
- 7.2.4. It is noted that the planning authority raised no objection in principle to the proposed office use. However, it considered the proposed development would contravene policy objective HCSR4 of the town plan which requires the provision of a childcare facility,

with capacity of 20 no. childcare spaces for developments of over 75 no. residential units. The loss of the proposed creche was also considered to be unacceptable due to the limited capacity within existing childcare providers within the Kinsale area.

- 7.2.5. It is acknowledged that the existing building forms part of the Convent Gardens residential scheme and, therefore, a creche facility is required under objective HCSR4. However, it is noted that the policy also states that this standard may be modified in any particular case where there are significant reasons for doing so. To justify the omission of the creche the applicant has provided a breakdown of the existing available creche spaces within the Kinsale area. The full details of childcare providers and capacity are attached in Appendix 2 of the appeal submission. From the evidence submitted it would appear that there are 8 no. existing childcare providers within a 10 minute drive of the appeal site, with a spare capacity of 25 no. spaces between the facilities. Details of the demographic profile of Kinsale is also provided in the appendix which indicates that the number of 0-4 year olds in Kinsale is below the national average.
- 7.2.6. The applicant has also provided details of existing permissions for childcare facilities within the Kinsale area. In this regard the Kinsale Manor residential development (Reg. Ref. 14/6533) and the Abbeyfort residential development (Reg. Ref. 06/11830) included the construction a creche. The applicant notes that the residential element of these schemes are generally complete, while the creches have yet to open. Therefore, the demand generated by the occupied dwellings is already being meet within the Kinsale area and the creches would provide additional capacity. It is also noted that permission has been granted (Reg. Ref. 18/7346) for an existing creche within Kinsale to accommodate an additional 22. no children.
- 7.2.7. The applicant has also stated in the appeal, that due to the limited size of the proposed creche, which has a maximum capacity of 20 no. child spaces, it is difficult to find an operator.
- 7.2.8. Having regard to the evidence submitted by the applicant regarding the number of available childcare spaces within existing and proposed childcare facilities in the Kinsale area and the limited capacity of the proposed creche, it is my view that the

proposed development is compliant with Policy objective HCSR4 and permission should not be refused on this basis.

7.3. Car Parking

- 7.3.1. The proposed development does not provide for any dedicated on-site car parking for the proposed office use. The Area Engineer's report noted the impact of the development on the capacity of existing on-street spaces should be assessed. In the appeal, the applicant addressed the Area Engineers concerns regarding the potential impact on on-street spaces. It stated that the offices would serve the locality and it is not anticipated that they would attract commuting from outside Kinsale. The proposed change of use would provide an opportunity for more sustainable lifestyle by providing working and living spaces within the development.
- 7.3.2. Having regard to the limited size of the proposed office and the location of the site, approx. 250 from the town centre and within a residential development it is my view, that the proposed development would not generate significant level of overspill car parking onto the surrounding road network.

7.4. Appropriate Assessment

Having regard to the nature and small scale of the proposed development and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

8.0 Recommendation

I recommend that permission be granted subject to conditions.

9.0 Reasons and Considerations

Having regard to the zoning objective of the subject site, the site located within the town boundary of Kinsale and within a former chapel located on the grounds of St. Joseph's Convent and to the nature and scale of the proposed development it is considered that, subject to compliance with the conditions set out below, the proposed

development would be acceptable and would not seriously injure the amenities of the area and would be acceptable in terms of traffic safety. 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, 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. Details of the proposed advertising signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity and to protect the historic fabric of the building.

3. Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

4. The applicant shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

5. Site development and building works shall be carried out only between the hours of 0700 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 amenities of property in the vicinity.

6. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

Elaine Power
Planning Inspector

13th March 2020