



An
Bord
Pleanála

Inspector's Report

ABP-308240-20

Development	Permission for change of use from public bar to restaurant/takeaway and retention of store facility at rear of premises.
Location	Coolaney, Co. Sligo, F56 EK00.
Planning Authority	Sligo County Council
Planning Authority Reg. Ref.	19309
Applicant	Margaret Davis
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellants	Brian Sexton Patrick F. O'Donovan
Observer(s)	None
Date of Site Inspection	15 th December 2020
Inspector	Máire Daly

1.0 Site Location and Description

- 1.1. The subject site (0.029ha) is located on the western side of main street in the village of Coolaney in southern County Sligo. Coolaney is located approximately 23 km to the south-west of Sligo Town. The settlement is bounded by the disused Sligo-Limerick railway line (which forms part of the Western Rail Corridor) to the south-east and by the Owenbeg River to the north-west.
- 1.2. The existing structures on site (96sq.m in total) are comprised of the two storey public bar (69sq.m) known as the River Inn, which has a narrow front elevation which faces onto Coolaney's main street and a corrugated steel flat roofed store structure (27sq.m), with a wooden cladded base, which is attached to the rear of the building. The applicant's private dwelling house adjoins the premises to the north and the site is bound partly on the northern side also by the Horseshoe Crescent riverside walkway. A wooden entrance gate provides access to the site from the walkway. A service yard is located to the rear of the site and behind this to the west is a rear garden with an overgrown lawn visible (also in the applicant's ownership). The buildings adjoining the site to the south are residential in nature, with the nearest adjacent building in the applicant's ownership. The buildings vary from two to three stories, with ridge levels approx. 800mm above the building on subject site.
- 1.3. The Owenboy River, which forms part of the Unshin River Special Area of Conservation (SAC) (Site Code: 001898) is located approximately 12m north of the site at its closest point and is separated from the site by the existing riverside public walkway. The river meanders to the west and north of the village at this point close to the site. A recorded monument 'Castle- motte' which is listed under the Record of Monuments and Places (Monument ID: SL03298) is located approximately 100m west of the site on the other side of the Owenboy River.

2.0 Proposed Development

- 2.1. The proposed development is to comprise:
 - Permission sought for change of use from a public bar to restaurant (69sq.m) with 8 tables and seating for approx. 22 customers.

- Retention permission sought for as constructed, corrugated steel flat roofed store structure with wooden cladded base and stepped side access door, to rear of building (27sq.m). This building is to be used for food and liquid storage and wash area.

2.2. Following a request for further information from the planning authority, additional information including revised drawings were submitted by the applicant on 12th August 2020 which included:

- A Waste and Litter Management Plan with designated waste/bin storage area to rear of property (Drg. Number 01A)
- Details of Grease Trap/Grease Removal System.
- Confirmation that a food macerator/or similar device to facilitate the disposal of waste food to the sewage system shall not be installed on site.
- Details of point of discharge of trade and domestic effluent to Irish Water sewerage network.
- Details for the interception, collection and disposal of clean surface water proposals.
- Details of the fume extraction system proposed.
- Proposals for ventilation to WC room (to front of building).
- Details of use as restaurant and opening hours.
- Details of ventilation pipe to rear of the premises.
- Confirmation that no additional signage is proposed apart from that shown on submitted plans.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to grant permission subject to twelve conditions, most of which are standard in nature for this type of development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Two planning reports were completed for the current application. The first (September 2019) requested 10 points of further information the details of which have been outlined under Section 2.2 above.

Following a response received by the applicant on 12th August 2020, the planning authority granted permission subject to 12 conditions. The planning officer's report (August 2020) generally reflects the decision of the planning authority and can be summarised as follows:

- The area planner noted in their final report that the FI response did not result in any changes which would impact on the streetscape at the site location.
- In addition, they stated that standard opening hours for such facilities in the County are 12:00 – 24:00.
- It was considered that the issues raised by those who made observations in relation to the takeaway had been addressed in the original planner's report (September 2019).
- The planning authority stated that they carried out a Habitats Directive Assessment Screening for the proposed development in accordance with Article 6(3) and 6(4) of the Habitats Directive 92/43/EEC which concluded that *'there is no significant adverse effect expected within the development site which is outside of any Natura 2000 site'* and therefore determined that a stage 2 Appropriate Assessment was not required.
- Overall, it was determined that the proposal was considered to be in keeping with developments in the area and comply with the current County Development Plan.

3.2.2. Other Technical Reports

- Area Engineer – report dated 20th August 2019 – no objection subject to standard conditions.
- Environment Section – initial report dated 27th August 2019 requested further information in relation to the following:

- Details of extraction system to serve premises.
- Submit a waste and litter management plan for the operational phase of the development.
- Submit details of grease trapping system to serve the food preparation/kitchen area of the site.
- Confirmation that purpose-built mechanical devices to shred or hydrate or otherwise alter the structure of food waste for the purpose of facilitating its discharge as wastewater to the local sewerage system will not be utilised on site.
- Location of point of discharge of trade and domestic effluent to the Irish Water sewerage network.
- Confirm proposals for the interception, collection and disposal of clean surface water runoff from roof areas of the development and impermeable hard surface areas within the confines of the site.
- Proposals for trading days and proposed opening and closing hours.

A final report in response to the further information received was dated 26th August 2020, which stated no objection to the proposal subject to compliance with development policies and conditions.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

3.4.1. Four third party observations were received in connection with the application, these were submitted from:

- Brian Sexton – Main street, Coolaney.
- Sarah Sexton, Main Street, Coolaney.
- Tom Doyle, Main Street, Coolaney.
- Patrick F. O’ Donovan, Main Street, Coolaney.

3.4.2. The observations received can be summarised as follows:

- Concerns in relation to the negative impacts the development would have on the occupants of residential properties in the vicinity and the children of the area, the availability of fast food may exacerbate childhood obesity.
- The ventilation system for use as part of the fast food business interferes with the amenities of the nearby dwellings, noise and odour.
- Development abuts a SAC, increased traffic will impact on fauna traversing this point of the corridor.
- No additional parking proposed, therefore access to the River Walk may be inhibited by additional vehicles parking in the area.
- Concerns in relation to noise, odours, vermin control and litter generation from the proposal.
- Late night activity and anti-social behaviour.
- Wastewater – potential pollution and flood issues.
- Insufficient information in relation to opening hours and type of restaurant.
- Visual amenity and character of street will be impacted negatively.

4.0 Planning History

On site:

- P.A. Ref. 1913 Sligo County Council (SCC) – March 2019 - Permission granted for installation of a ventilation extractor system to serve existing pub premises.
- P.A. Ref. 07732 SCC – August 2007 – Permission granted subject to 19 conditions for (1) change of use of part of existing dwelling house to an off licence, floor area 18.35 sq.m (2) the change of use of part of existing dwelling house to public house, floor area 18.74 sq.m (3) extension of existing store of public house , floor area extension: 9.70 sq.m (4) change of use of part of existing dwelling house to retail outlet and to carry out extension to the rear to provide store and toilet facilities, total floor area : 25.55 sq.m (5)

construction of two new retail units, floor area unit 1: 86.82 sq.m floor area, floor area unit 2: 80.00 sq.m (6) construction of a new restaurant, associated kitchen areas, public toilets, staff accommodation and general storage areas: total floor area: 349.76 sq.m (7) construction of a new three bed- roomed apartment (8) change of use, extension, and renovation of existing dwelling house at first floor level, to three bed-roomed apartment, floor area of extension: 9.60 sq.m (9) to provide 14 car parking spaces and all associated site development works and services.

Other relevant applications along Main Street and village centre

- ABP. Ref. 248085 – August 2017 – Permission refused by the Board for change of use from retail to takeaway restaurant at existing retail unit 03, Block 3, The Mill Centre, Coolaney.
Reason for refusal related to impacts on residential amenity when considering change of use from former retail to takeaway restaurant and contrary to policy P-NC-1 of the Sligo County Development Plan 2011-2017.
- P.A. Ref. 16279 SCC – December 2016 - Permission refused for development consisting of change of use from existing beauty salon to fast food outlet (take-away) and all associated works. The following reasons for refusal was stated:
Having regard to its nature and its location within a mixed-use area with a dominant residential component, it is considered that the proposed development would seriously injure the residential amenities of neighbouring dwellings by reason of noise at a level of 70dBA (at 3m) arising from the mechanical extraction of kitchen fumes. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
- P.A. Ref. 1976 SCC – August 2019 – Permission granted for development consisting of the change of use as permitted under PL 06/466 from retail unit (total area 87.5m²) to restaurant together with signage all associated works . Condition no.17 related to opening hours and restricted these between 08:00 and 21:00.

5.0 Policy Context

5.1. Sligo County Development Plan 2017-2023

5.1.1. The following policies are relevant in the assessment of the proposed development:

Rural development and diversification policies:

- **Policy P-RDD-5** - *Encourage the growth or expansion of existing rural based or well-established small-scale industry and enterprise in rural County Sligo. Where an existing rural-based enterprise proposes to expand in its current location, it will be necessary to demonstrate that such expansion can be accommodated without damage to the environment, natural or built heritage, human health, visual and residential amenity, and that it will not have a negative impact on the character of the area.*

Protected plant and animal species policies:

- **Policy P-PPAS-1** - *Ensure that development does not have a significant adverse impact, incapable of satisfactory mitigation on plant, animal or bird species protected by law.*

Noise control policies:

- **Policy P-NC-1** - *When assessing proposals for activities that are likely to generate significant levels of noise, seek to protect the amenity of dwellings, community facilities and other noise-sensitive developments by ensuring that all new (and where possible existing) developments incorporate appropriate measures to minimise noise nuisance.*
- **Policy P-NC-2** - *Developments that operate at night – e.g. restaurants, takeaways, pubs, hotels, night clubs – should not be located close to dwellings, where possible.*

5.1.2. The following sections are also relevant:

- **Section 10.3 Noise control**
- **Section 13.5.9 Shopfronts and signage**
- **Section 13.6.3 Fast-food take-aways** - *Concentration of hot-food take-aways will not be permitted in any particular area. Regard will be had to the*

impact of hot-food take-aways on the amenities of an area, including noise, odour and litter. The Planning Authority may impose restrictions on opening hours as a condition of a planning permission.

- **Section 13.8.5 Car parking requirements, layout and design**

Table 13.C Car parking standards:

Bar lounge - 1 space per 2.5 sq.m of public area

Restaurant – 1 space per 4.5 sq.m of dining area

5.2. Coolaney Rockfield Mini Plan 2017-2023

The subject site is zoned mixed use in the current plan.

- **Section 17.1 Natural heritage and open space** lists objectives in relation to the Owenbeg River as follows:

B. Protect and enhance the river walk along the Owenbeg River and preserve the riverbanks as a wildlife corridor / river buffer zone.

F. Facilitate the protection and enhancement of the conservation value of the Unshin River SAC (of which the Owenbeg River forms part).

- **Section 17.2 Built heritage and streetscape** states the following objectives:

A. Ensure that new development within the village centre reflects and enhances the distinctive streetscape character in accordance with the policies set out in Chapter 12 (Town and village design) and the requirements of Section 13.2.4 Development in historic streetscapes (development management standards) in Volume 1 of this Plan.

The subject site is identified as a 'Key site for streetscape design' with an objective number 'S1'.

C. The Objectives Map identifies key sites or structures that have potential or already contribute to the village character by closing a view or containing a space. These sites and buildings should be developed, redeveloped or renovated with particular care having regard to their location, so that they enhance the streetscape and act as focal points or landmarks.

- **Section 17.4 Village-centre mixed use zones** outlines the relevant objectives for this zoning as follows:

- A. Facilitate a blend of mainly residential and commercial/retail activities in the areas zoned for mixed uses, i.e. in the village core south of the Owenbeg River.
- B. Give special attention to the siting, layout and design of new or redeveloped buildings around junctions.

5.3. Natural Heritage Designations

- 5.3.1. The proposed development site is located approximately 12m south of the Unshin River SAC (Site Code: 001898). The designated river site meanders around the edge of Coolaney and flows from the rear (west) to the north of the site.

6.0 The Appeal

6.1. Grounds of Appeal

Two third party appeals have been received from Brian Sexton and Patrick F. O' Donovan, both of Main Street, Coolaney. Both parties have appealed the decision of Sligo County Council to grant permission for the proposed development. The grounds of appeal can be summarised as follows:

- Incomplete/incorrect planning application documentation – application form did not state that the site is immediately adjacent to Unshin River SAC.
- Concerns that the current proposal will operate as a takeaway rather than a restaurant.
- Requirement for Stage II Appropriate Assessment (Natura Impact Statement) – the operation of the restaurant will give rise to foul water and surface water discharges as well as litter and waste. The surface water will be directed to an existing storm water manhole which appears to discharge to the River Unshin SAC. Mitigation measures were proposed as part of the further information received by the planning authority, these included drainage works and a waste storage area. The appellant contends that this application required a Natura Impact Statement and a Stage 2 Appropriate Assessment.

- Unlawful retention permission as a Stage II Appropriate Assessment is required – the only mechanism open to the applicant for a retention permission where a NIS/Stage II Appropriate Assessment is required is an application to An Bord Pleanála for substitute consent under Section 177C of the P&D Act. The Board should consider the unauthorised development which has taken place previously on the site when considering whether or not exceptional circumstances exist.
- Negative effect on residential amenity – the same issues exist for the current application as did for P.A. Ref. 16/279 which was refused due to impact on residential amenity. These impacts will be in the form of noise and odour from ventilation systems, opening hours and anti-social behaviour, parking and health and safety issues.
- The condition attached by the planning authority to the grant of permission stated opening hours from 12.00hrs to 24.00hrs. This will result in this restaurant being open considerably later than other restaurants in the village (e.g. P.A. Ref. 19/76 operating hours conditioned 08:00 to 21:00) and having an impact on adjoining residents' ability to sleep and young families and elderly people.
- Protection of River Walk amenity/ objectives of Mini Plan – The establishment of a fast food restaurant/takeaway at this location would conflict with the objectives as listed in the Plan in relation to the river walk and the protection of the Owenbeg River. Potential littering and anti-social behaviour would result.
- Bats/Birds – no bat survey was undertaken in relation to the vacant premises and adjacent riverine habitat.
- The ventilation pipe for the fume extraction system was not part of the application, or any previous permission. It is of different size, positioning and purpose to the one granted under P.A. ref. 19/13. No public notice was given of this new development and no opportunity was given for interested parties to comment on this.

6.2. Applicant Response

- None.

6.3. Planning Authority Response

The planning authority's response to the grounds of appeal can be summarised as follows:

- The planning authority refers the Board to the planner's report and other reports prepared in connection with the assessment of this application, as well as the decision of the planning authority to grant permission.
- The application was for a change of use from a public bar to restaurant and was considered and assessed by the planning authority as such.
- The matter of the ventilation pipe has been addressed in the further information request and response.
- AA screening was carried out as part of the assessment.
- The appellant has not submitted any additional information as part of the appeal that would alter the planning authority's decision on this application and it is still considered that the proposed development would be suitable at this location and is consistent with the relevant provisions of the County Development Plan 2017-2023.

6.4. Observations

- None.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development

- Residential Amenity
- Fume Extraction Duct System
- Appropriate Assessment

7.2. Principle of Development

- 7.2.1. The subject site is located on the north western side of Main Street, Coolaney and is zoned mixed use under the Coolaney Rockfield Mini Plan. Section 17.4 of the plan details that these zones should facilitate a blend of mainly residential and commercial/retail activities. The current use on the ground floor of the building is a public bar and permission is sought for a change of use to a restaurant with a takeaway element and retention permission for an as constructed store facility to the rear of the building.
- 7.2.2. Policy P-RDD-5 of the Sligo County Development Plan 2017-2023 encourages the growth and expansion of existing rural based or well-established small-scale enterprise. The proposed change of use would see the provision of a restaurant/takeaway service in the village. The area in which the site is located is designated as a key site for streetscape design and the plan states that these sites and buildings should be developed, redeveloped or renovated with particular care having regard to their location, so that they enhance the streetscape and act as focal points or landmarks. The proposed development will see no physical change to the front of the property apart from the re-erection of the 'River Inn' signage as detailed in Drg. Number 01A, therefore it is not considered the proposal will have any negative impact on the existing streetscape nor be contrary to objective number 'S1' as listed on the Objectives Map and under Section 17.2 of the Mini Plan.
- 7.2.3. The proposed development which seeks the change of use from a public bar to a restaurant is considered acceptable under the current mixed use zoning, subject to other considerations such as those listed under Policy P-RDD-5 which include the impacts of the proposed development on environment, natural or built heritage, human health, visual and residential amenity, and the character of the area. The suitability of a given proposal will therefore be determined by an examination of the above factors. These are examined in greater detail under the sections below.

7.3. Residential Amenity

Noise and Odour

- 7.3.1. The proposed development is located in the village centre in Coolaney, in an area zoned 'Mixed Use'. While it is acknowledged that the adjoining properties to the north and south are residential in nature, it should be borne in mind that the existing use on site is a public bar and therefore there would have been a base level of noise associated with this use.
- 7.3.2. As part of the further information submitted in response to the planning authority's request, the applicant has stated that the proposed extraction system to be installed in the kitchen to the rear of the building is a 630 diameter single phase fan. The specifications for this fan submitted as part of the further information state that a single phase 630 diameter fan has an inlet dBA @3m of 63 and an outlet dBA @3m of 65. A normal conversation has noise levels of approx. 60 to 65dBA. I note the appellants referred to the details of P.A. Ref. 16/279 which relates to a planning application which was refused for a change of use from a beauty salon to a takeaway. This application was refused based on the impact on residential amenities by reason of noise at a level of 70 dBA (at 3m) from the proposed mechanical extraction fan. It is not considered that a noise level between 63 and 65 dBA will impact significantly on residential amenities and therefore is acceptable in the case of the current application on this mixed use site. The environmental health office (EHO) of the Council have a role in monitoring and enforcing noise limits and any breaches of agreed noise limits can be addressed by the EHO.
- 7.3.3. I am satisfied that the proposed development is in compliance with the Sligo County Development Plan policy P-NC-1 which seeks to protect the amenity of dwellings, businesses, community facilities and other existing developments when assessing proposals for development that is likely to generate significant levels of noise and policy P-NC-2 which seeks to ensure all new developments incorporate appropriate measures to minimise noise nuisance from the development. If the Board are minded to grant permission, the operation of the fan can be limited by way of condition associated with the general operating hours of the premises.

Opening Hours

- 7.3.4. The appellants argue that the presence of such an outlet, operating in the late evening and at night would give rise to customers congregating and anti-social behaviour. The applicant in the response to further information stated that the proposed opening hours were 16:00 to 00:30hrs, 7 days and that the expected customer base would be 70% seated customers and 30% takeaway. The submitted floor plans show seating for 22 patrons. I note the report of the Environmental Scientist for the Council, which states that hours of trading could be an area of concern. I draw the Board's attention to section 13.6.3 of the Sligo County Development Plan which states that the Planning Authority may impose restrictions on opening hours as a means of ensuring that a take-away development does not impact on the residential amenity of an area. I note the planning authority have attached a condition for opening hours between 12:00 and 24:00 which they state are the standard opening hours for such facilities in the County.
- 7.3.5. Given that the existing use on site is a public bar with standard legal opening hours up to 23:30 Monday to Thursday, 00:30 Friday and Saturday and 23:00 on Sundays, I would consider the conditioning of a closing time taking account of the above would ensure the residential amenities of the adjoining properties are preserved. Therefore, if the Board are minded to grant permission, a condition limiting the opening hours of the take-away to 23.00 Monday to Sunday should be attached.

Carparking

- 7.3.6. Section 13.8.5 of the Sligo County Development Plan outlines the car parking requirements for various developments with the car parking standards listed under Table 13.C of same section. The application is for the change of use from an existing public bar to a restaurant. Under table 13.C a 'Bar lounge' requires 1 space per 2.5 sq.m of public area, whereas a 'Restaurant' requires 1 space per 4.5 sq.m of dining area. The parking requirements for a restaurant are less than those required for a public house, therefore no additional parking is required under current development plan policy. While I note the appellants concerns, having visited the site I would consider that there is ample public parking along both sides of the Main Street to service the proposed use. In addition, the Riverside Walk is clearly an amenity walk

and therefore I do not believe that patrons of the restaurant would use the area for parking any more than it may be utilised for parking currently.

Effect on Owenbeg River Walk Amenity and Bat Species

- 7.3.7. The proposed restaurant is to be located fronting onto the main street in Coolaney, with no direct access onto the river walk proposed. The appellants have stated their concern regarding the possible littering of the amenity walk as a result of the takeaway element of the proposal. The applicant in response has submitted a Waste and Litter Management Plan which includes details of management of waste generated from the restaurant operations but also proposes a removable general waste bin which is to be located at the entrance/exit door of the restaurant for clients litter disposal in relation to the takeaway element of the business. This bin will be put out on a daily basis and managed by staff. In my opinion the applicant has provided sufficient litter management measures to address any potential additional waste generated.
- 7.3.8. In addition to the above, I note that concerns have been raised as part of the appeal in relation to the impact that the proposed development may have on bat species which use the riverine habitat and in relation to the vacant premises. In considering this issue I note that the works are to be carried out on an existing public bar and should involve minimal intervention. The development proposes no works near the riverine environment and will have no impact on the treelines adjacent to the public walkway, which bats may use as commuting routes, for feeding or for shelter. Therefore, the requirement for bat surveys to be carried out in the case of this development, which involves the change of use from a public bar to a restaurant/takeaway, is not justified.

7.4. Fume Extraction Duct System

- 7.4.1. I note the concerns raised in the appeal in relation to the ventilation pipe for the fume extraction system. The original rear elevation drawings (Drg. Number 01) submitted with the application showed a ventilation pipe on the rear elevation drawings coming out from the kitchen area on the southern elevation of the building. The submitted floor plans also had this ventilation pipe denoted. This ventilation pipe differed from that granted under planning permission P.A. Ref. 1913. The Board should note that this issue was raised by the planning authority under point no.9 of the further

information requested. The further information submitted by the applicant addressed this issue in combination with the requirements under further information request point no.6 and the applicant submitted revised plans (Drg. Number 01A) showing the proposed new fume extraction system to serve the premises. This included a ventilation pipe out of the southern elevation, from the kitchen area, which in turn travels upwards approximately 3.5m, and clears above the nearest window by approximately 1.1m to alleviate the impacts of any odours on adjoining residents. The applicant has confirmed that the vent pipe as shown on the original submitted drawings is to be removed (Drg. Number 04 – Date July 2020).

7.5. Appropriate Assessment

- 7.5.1. The proposed development site, at its nearest point is located approximately 12m from the Owenbeg River to the north. The River forms part of the Unshin River Special Area of Conservation (SAC) (Site Code: 001898).
- 7.5.2. The planning authority on receipt of further information carried out a Habitats Directive Assessment Screening of the proposal, this screening assessment concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European Site and accordingly they determined that a Stage II assessment (Natura Impact Statement) was not required.
- 7.5.3. The appellant argues that the operation of a restaurant will give rise to foul water and surface water discharge as well as waste and litter which would impact on the SAC. In addition, the appellant states that construction works and the operational management of the drainage system and waste storage areas have the potential to affect the SAC without mitigation. The appellant claims that the further information submitted on the application (dated 12th August 2020) which confirmed the site would require drainage works and a waste storage area, would constitute mitigation measures and that an NIS/Stage II Appropriate Assessment should have been required.
- 7.5.4. I note the appellant's comments and acknowledge that measures intended to avoid or reduce the harmful effects of a project on a European site cannot be taken into account at the screening stage (People over wind and Sweetman – C-323/17). However, I'm also aware that measures such as 'best practice' methods are only

'mitigation' for the purpose of AA if they are required to reach a conclusion of no likely significant effect on a European site. In my opinion the further information received by the planning authority, which included a waste and litter management plan and details of the point of discharge to the local sewerage scheme would be standard information required to make a determination on this type of development.

7.5.5. The proposal includes for a takeaway element from the restaurant and therefore the provision of a waste and litter management plan would be standard practice. In addition, the Environment Section of Sligo County Council requested details of the fat, oils and grease trapping system to be provided so that an assessment of the proposed methods could be carried out and to ensure that no waste would be disposed to the public sewer. The applicant satisfied these requirements submitting details of the proposed system and location on the revised site layout plan (Drg. Number 01A) and stating that fats, oils and grease from cooking equipment will be removed at intervals, stored in containers on site and removed off-site by contractors (Frylite). The applicant also has included details on Drg.01A for the interception, collection and disposal of clean surface run-off from roof areas and impermeable hard surfaces. The mechanisms provided are considered acceptable and it is not expected that the proposed development will exacerbate the existing surface water runoff situation to any significant level so as to impact negatively on the local stormwater drainage system or the SAC. Trade and domestic effluent from the proposed development will be directed to the Irish Water sewerage network, as shown on Drg. 01A and therefore will have no impact on the Owenbeg River or the qualifying interests of the SAC.

7.5.6. In summary it is considered that the intention of the measures proposed (as detailed in the further information submission received by the planning authority) are required as a central part of the development and would have been required to be provided in any event, irrespective of the proximity to the Owenbeg River. Therefore, having regard to the nature and scale of the proposed change of use and the location of the development within an urban area with proposed connection to an existing public sewer, 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 any European site.

8.0 Recommendation

- 8.1. I recommend that planning permission should be granted, subject to conditions as set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to the zoning objectives for the area and pattern of development in area, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the residential property in the vicinity or the established character of the area. 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 retained, 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 12th day of August 2020, 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. The hours of operation shall be between 12.00 hours and 23.00 Monday to Sunday.

Reason: In the interest of the residential amenities of property in the vicinity.

3. A noise monitoring programme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, to include an annual review, until such time that the Planning Authority decree, undertaken by a qualified acoustic engineer at the nearest noise sensitive

location. The developer shall carry out any amendments to the subject development requested by the planning authority subject to the review.

Reason: In the interest of protecting the amenity of the nearby residential properties.

4. No fans, louvres, ducts or other external plant other than those shown on the drawings hereby permitted shall be installed unless authorised by a prior grant of planning permission.

Reason: In the interest of visual amenity.

5. Notwithstanding the provisions of the Planning and Development Regulations 2001, as amended, or any statutory provision amending or replacing them, other than that indicated on the drawing no. 01A, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

6. Litter in the vicinity of the premises shall be controlled in accordance with a scheme of litter control which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the provision of litter bins and refuse storage facilities.

Reason: In the interest of visual amenity.

7. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

8. Site development and building works shall be carried out only between the hours of 0700 to 1800 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.

9. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads/footpaths, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development.

10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Máire Daly
Planning Inspector

18th December 2020