



An  
Bord  
Pleanála

## Inspector's Report

### ABP-311152-21

<b>Development</b>	Alterations to a previously approved ground floor outdoor seating area (Register Reference 20/7) in order to remove condition no. 2(a) which restricts the permission for 2 years to allow for a permanent permission, and to provide for an enclosed seating area to the front.
<b>Location</b>	Zoe House , Church Road / Hillside Road , Greystones, Co Wicklow
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	2130
<b>Applicant</b>	O'Connor Whelan Ltd.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	O'Connor Whelan Ltd.
<b>Observer</b>	None.
<b>Date of Site Inspection</b>	3 April 2022
<b>Inspector</b>	Mairead Kenny

## 1.0 Site Location and Description

- 1.1. The site is prominently located in the heart of the commercial / retail core in Greystones and at the corner of Church Road and Hillside Road.
- 1.2. The subject site is within an Architectural Conservation Area (ACA).
- 1.3. The building subject of the proposed alterations is known as Zoe House. The overall commercial property comprises a building fronting onto Church Road, which is a four bay two-storey former house dating to 1870. The main entrance to Zoe House is from Hillside Road where there is a two-storey commercial building over a basement car park. Zoe House is of stated floor area of 1994 sq. m.

## 2.0 Proposed Development

- 2.1. The proposed development as revised during the course of the planning application may be summarised as follows:
  - Amend previous permission to remove condition 2(a) to allow for permanent permission
  - Provide a permanent glass and timber structure surrounding the outdoor seating area canopy over seating area.

The original proposal presented provided for a glass canopy structure and an open outdoor seating area.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority decided to refuse permission for the reason summarised below:

- Having regard to its prominent location to the front of a building recorded in the NIAH and within an ACA and its scale and fully enclosed design along a public footpath and the streetscape
- Would constitute a strident and obtrusive feature contrary to the ACA

- Would result in a reduction in footpath width, detract from the public realm and public safety.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The main points of the planner's report as relevant to the revised development are:

- A review of the historic maps, available records and documents shows that this area always formed part of the footpath and public realm although the applicant states that it is their ownership. A permanent structure is not acceptable.
- The design is not in keeping with the area, the streetscape or the ACA
- The design does not respect the character of the building which is recorded on the NIAH
- The fully enclosed seating area would mitigate against any potential antisocial behaviour.

#### **3.2.2. Other Technical Reports**

The Greystones Municipal Engineer as relevant to the revised development recommends refusal of permission as the proposed development comprises use of a public footpath for a permanent structure.

### **3.3. Prescribed Bodies**

No reports.

### **3.4. Third Party Observations**

None.

## **4.0 Planning History**

Reg. ref. 20/7 refers to a grant of permission for an outdoor seating area of 20 m<sup>2</sup> surrounded by a 1 m high demountable fabric balustrade and covered with a 3.05 m

high retractable canopy. The proposed development was to be located to the front of the existing ground floor café at Church Road.

Condition 2 states:

(a) This permission allows for the placing of tables, chairs and balustrade on the subject site for a period of two years from the date of final grant of permission. After that date the permission shall cease and all tables, chairs and the balustrade shall not be placed on the subject site.

(b) At the close of business each day/evening all tables, chairs and the balustrade shall be removed from the subject site.

The stated reason was given as clarification and amenity.

The application drawings showed defined seating area of 20 m<sup>2</sup> which protected 2325 mm from the front façade. The relevant application drawings show that the café/coffee shop and Church Road connects to the ground floor of the premises and Hillside Road, named Mrs Robinson's.

## **5.0 Policy Context**

### **5.1. Development Plan**

The site is within Church Road Architectural Conservation Area. The design of development in these areas to preserve and/or enhance the character and appearance of the ACA as a whole. Proposals should only be considered where they positively enhance the character of the ACA. Architectural details on buildings of high architectural values should be retained. A high standard of shopfront design will be required. The materials used should be appropriate to the character of the area.

The development plan sets out a range of policies to promote and enliven retail environments and to support and develop tourism within the county.

### **5.2. Natural Heritage Designations**

None relevant.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The main points of the appeal may be summarised as follows:

- The planning authority has failed to take into account policies relating to hospitality and tourism and the importance of ancillary facilities such as restaurants.
- The proposed development has no impact on the building lines and comprises a minor single storey development which does not reduce the footpath width and is of acceptable scale and nature.
- There are many outdoor seating areas in the vicinity, which contribute to town centre vitality.

### 6.2. Planning Authority Response

No substantive response has been received.

### 6.3. Observations

None.

## 7.0 Assessment

I consider that the issues arising in this case may be considered under the following headings:

- principle of development
- design
- Condition 2(a) and the impact on footpath and public realm.

### 7.1. Principle of development

I agree with the assessment by the planning authority that having regard to the town centre area, the pattern of development and policy objectives to promote a vibrant

town centre the development of an outdoor seating area associated with a trading restaurant in the heart of the commercial area is acceptable in principle. There are similar uses in this area which benefit from outdoor seating.

## 7.2. Design

The decision of the planning authority references design aesthetics and describes the structure as a strident and obtrusive feature. The decision refers to the revised proposal submitted by way of further information in response to concerns of the planning authority that the seating area might be used after-hours in association with other premises and that this would give rise to antisocial behaviour. The revised structure comprises a fully enclosed seating area which will be permanent in nature. It will be constructed of timber frame and include a rendered wall base and contains a significant amount of glazing.

I consider that the revised design is unacceptable in the context of the simplicity of the 1870s building which is listed on the NIAH and located within the ACA. The structure would obliterate any views to the entire ground floor of the subject building and for this reason alone I consider it constitutes a form of development which is fundamentally inappropriate. In my opinion the proposed development would fail to meet the criteria for the ACA to preserve and/or enhance the character and appearance of the ACA as a whole. Equally I am unconvinced that a high standard or suitable selection of materials is proposed.

As part of the further information response the applicant rejected the request to provide a visual impact assessment on the basis of the planning history and the scale of the proposed development. The original submission the planning authority was accompanied by an Architectural Heritage Impact Assessment report which set out the reasons why the proposed development comprising largely a glazed canopy would not detract from the architectural merits of the subject building. The report was not revised as part of the further information.

The original proposal comprising a glass canopy would in terms of its design and materials would be of high-quality design and constitute a simple unobtrusive feature. I consider that it would comprise a suitable intervention into the streetscape which would not be likely to detract from the appearance of the building of the ACA.

The Board may wish to consider a grant of permission based on the original design outlined. However, I note that revised public notices were submitted in connection with the further information submission. I do not consider that it would be good practice or in the interest of transparency and public involvement to revert to the original proposal by way of a planning condition.

### **7.3. Condition 2(a) and the impact on footpath and public realm**

The permission granted under reg. ref. 20/7 is a standalone permission which relates to the development of an outdoor seating area at this site and erection of a retractable canopy. The current application and appeal seeks the removal of condition 2(a) which authorises the use of the outdoor seating area for a period of two years only. I consider that it benefits the assessment of this appeal to explain the background to this condition. The internal reports on the current and previous file state that the subject use would be on public lands. When considering the previous application, the planning authority noted the provisions to secure a licence in this case, while considering at the same time that the application was acceptable. The initial proposal in the application included glazed balustrades and the revised proposal presented allowed for a fully demountable fabric windbreaker. The revised proposal met with the agreement of the district engineer on the basis that the structure could be readily taken down. Other conditions which were attached in the decision required that at close of business the fabric balustrade, tables and chairs be removed from the subject site.

The two-year limitation on the use of the public realm was imposed in the context of reservations relating to the use of these lands. The defined area set out under reg ref 20/7 was in the order of 20 m<sup>2</sup>. The enclosed structure as revised during the course of this application is a similar area. The enclosed structure would serve to contain the extent of the seating area. Nevertheless, I do not consider that the proposed development can be justified on this basis having regard to my considerations relating to its design. Furthermore, I note and agree with the consideration of the planning authority relating to the use of the public footpath and I agree that the subject area would have always been available as part of the public realm and that erection of a permanent structure is therefore inappropriate.

Regard to the width of the public footpath at this location I do not consider that the proposed development would impede pedestrian flow and I do not recommend that this matter be included in the Board's decision. The Board may however wish to include a note in the Direction if there are reservations relating to the principle of erecting a permanent structure on the public footpath.

Having regard to the nature and scale of the proposed development, the nature of the receiving environment, the likely emissions arising from the proposed development and the availability of public services, I am satisfied that 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 the decision of the planning authority be upheld, and that permission be refused for the reasons and considerations below.

## **9.0 Reasons and Considerations**

Having regard to the detailed design of the proposed development, in particular, the scale and width of the structure and the selected materials, it is considered that the development would obscure the ground floor of the building, would be overly dominant, would detract from the elegant simplicity intrinsic to the architectural character of the building, which is included on the National Inventory of Architectural Heritage and thereby fail to preserve and/or enhance the character and appearance of the Church Road Architectural Conservation Area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Mairead Kenny  
Senior Planning Inspector

4 April 2022



