



An  
Bord  
Pleanála

## Inspector's Report ABP-311347-21

<b>Development</b>	Demolition of retail unit and construction of guest house
<b>Location</b>	Kinsale Tile Store, Guardwell, Town-Plots, Kinsale, County Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	20/6168
<b>Applicant(s)</b>	Denis Noel O'Mahony
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Brian O'Neill
<b>Observer(s)</b>	Frank Kennedy
<b>Date of Site Inspection</b>	19 <sup>th</sup> October, 2021
<b>Inspector</b>	Kevin Moore

## **1.0 Site Location and Description**

- 1.1. The 0.03 hectare site of the proposed development is located in the town centre area of Kinsale on the west side of Guardwell. It consists of an L-shaped plot on which there is a single-storey retail building in use as a tile store. The internal space of the store is split over two levels, with the western portion at a higher level. The site is bounded to the west by St. Multose Church and graveyard, to the south by a five-storey modern residential block, to the north by a public house (Tap Tavern), and by a remembrance garden to the north-west. The building on the site incorporates the eastern boundary wall of the graveyard. A large portion of wall forming the boundary between the existing store and the remembrance garden comprises the remains of a gable wall of a late 19<sup>th</sup> century structure which extended along the western margin of the site.

## **2.0 Proposed Development**

- 2.1. The proposed development would consist of the demolition of a single-storey commercial unit and the construction of a 10 bedroom guest house comprising a part three storey and part two storey structure, with associated dining room, kitchen and reception area. The existing structure has a stated floor area of 274 square metres and the floor area of the replacement structure would be 545.5 square metres in area.
- 2.2. Details submitted with the application included a Design Report and an Archaeology Report. The former seeks to address a refusal by the Board for a previous proposal on the site.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On 16<sup>th</sup> August 2021, Cork County Council decided to grant permission for the proposed development subject to 17 conditions.

### **3.2. Planning Authority Report**

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

The Planner noted the changes to the design over that previously refused permission on the site. The reports received and third party submissions were acknowledged. A request for further information was recommended based upon the concerns raised in the reports and third party submissions received.

The Senior Executive Planner concurred with the Planner's recommendation.

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

The Senior Executive Architect had no objection to the proposed design. Revisions to rainwater goods and a slight recessing of the rear section of the development were recommended.

The Environment Section had no objection to the proposal subject to the attachment of a schedule of conditions.

The Conservation Officer noted the site is within an Architectural Conservation Area and is adjacent to St. Multose Church, a building included in the NIAH and rated of national importance. There was no objection to the demolition of the existing building. The proposed site coverage was considered somewhat excessive and the design was considered broadly adequate. Design concerns related to the proposed shopfront, guttering, lack of signage and lighting, the blank north-west elevation and the return between the three and two storey gable, and the overall massing of the north-west elevation needing a defined setback. There was also a concern about the impact on the stability of the shared boundary wall with St Multose Church. It was considered that the issues of concern could be addressed by way of condition. A grant of permission was recommended subject to a schedule of conditions.

The Area Engineer raised concerns about the lack of parking in the town centre and asked where will guests park.

The Archaeologist noted the site is within the Zone of Archaeological Potential of the town and is adjacent to two recorded monuments – St. Multose Church and its graveyard. The Archaeologist concurred with the applicant's recommendation for archaeological monitoring as a condition of planning. It was considered that the applicant's archaeological report was lacking in the assessment of the visual impact

on the church and graveyard. The principle of development was considered acceptable and the design was seen to be an improvement on a previous application. The Archaeologist concurred with the Conservation Officer's recommendation. A grant of permission, subject to one condition, was recommended.

### **3.3. Prescribed Bodies**

Inland Fisheries Ireland requested that Irish Water signifies that there is sufficient capacity in existence so that the proposed development does not overload the existing treatment facilities or result in polluting matter entering waters.

Irish Water had no objection to the proposal.

The Health Service Executive asked that the department be contacted when the structure is in place to assess it from a food safety point of view.

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

Objections to the proposal were received from Brian and Mary O'Neill of the Tap Tavern, Frank Kennedy, and Kinsale Union of Parishes Select Vestry. Concerns raised related to impact on the functioning of the public house, loss of light to the pub courtyard and to the windows of the dining room of the inhabited part of the objectors' building, adverse impact on the setting of St. Multose Church and its boundary wall, failure to address the concerns of development proposals previously refused permission, lack of car parking, loss of light, and blocking of a view.

- 3.5. A request for further information was issued on 27<sup>th</sup> November, 2020. A response to this request was received on 19<sup>th</sup> July, 2021 and included revised plans, an engineering report and an archaeological assessment. It was confirmed that the proposed dining broom would be open to non-residents for dining.

- 3.6. The reports to the planning authority were as follows:

The Conservation Officer had no objection to permission being granted subject to the attachment of conditions.

The Area Engineer submitted that he would have issue with the lack of parking. There were no other engineering concerns.

The Environment Section noted that a construction and demolition waste management plan had not yet been received.

The Planner noted the further information and recommended that permission be granted subject to a schedule of conditions.

## **4.0 Planning History**

### P.A. Ref. 08/53032

Permission was granted for a three-storey development incorporating three apartments over a retail and associated office unit.

### P.A. 13/53018

An extension of permission relating to the above development was granted by the planning authority.

### ABP-306841-20 (P.A. Ref. 19/6935)

Permission was refused by the Board for the demolition of the retail unit and the construction of a three-storey, 12 bedroom guest house.

## **5.0 Policy Context**

### **5.1. Kinsale Town Development Plan**

#### Zoning

The site is zoned 'TC4 – Established town centre incorporating mixed use development in keeping with the unique character of the area'.

### **5.2. EIA Screening**

Having regard to the nature, scale and location of the proposed development, there is no real likelihood of significant effects on the environment. The submission of an EIAR is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The appellant is the owner of the Tap Tavern located immediately to the north-west of the site. The grounds of the appeal may be synthesised as follows:

- The courtyard at the rear of the bar is an area where music is performed and music is permitted up to closing time. The appellant is seriously concerned that the proposal to surround his premises with holiday accommodation will change the use of the premises as it will lead to complaints from guests in the proposed development and challenges to the renewal of the pub licence. Prohibition on the playing of music in the courtyard would have a considerable impact on the appellant's livelihood.
- The natural light in the courtyard is already seriously impacted by the five storey building beside the site. The new development would entirely remove sunlight from early evening on in the summer months.
- The windows facing onto the Tap Tavern's laneway adjoining the site would be adversely affected. Both of the appellant's parents live in the premises and their living quarters windows look directly onto the laneway.
- The proposal decimates the view of the apse of St. Multose Church on the approach from Market Square and the Courthouse.
- The proposal fails to adequately address any of the substantive issues raised in the Inspector's report to the Board in the previous planning application that was refused by the Board or the planning authority's previous reason for refusal.
- The only issue examined by the Planner on the impact on St. Multose was how the rear wall relates to the boundary wall. The scale and mass of the northern and north-western facades have not diminished in the slightest form to that refused in 2019. In fact, the ridge height of the north-western elevation has increased in height. The real impact on St. Multose is not mitigated in any way.

- The proposal constitutes overdevelopment of the site, offering no parking and no amenity.

## 6.2. **Applicant Response**

The applicant's response to the appeal may be summarised as follows:

- The applicant's design team has gone to some lengths to address the appellant's concerns in relation to the Tap Tavern courtyard. The layout has no guest bedrooms overlooking the courtyard. There is a lane and a number of structures between the courtyard and the proposed development. In view of the temporary nature of the guests' stay and that only one bedroom adjoins the boundary with the Tap Tavern with no overlooking windows, the concern in relation to the renewal of the music licence is unfounded.
- The proposal will improve the prospect from the courtyard of the Tap Tavern by screening the Kinsale Suite. The light level of the north-facing Tap Tavern alleyway has already been reduced by the development of the five-storey apartment development to the south.
- Having regard to the input of the applicant's archaeological and conservation services, the appellant's assertion that the proposed design is over-development, with a poorly designed north-west façade and impacting on the view of St. Multose Church, is rejected.
- The proposal is consistent with all planning policies and objectives.

## 6.3. **Planning Authority Response**

The planning authority submitted that all relevant issues had been addressed in its technical reports and it had no further comment to make.

## 6.4. **Observations**

The observer has an opticians' premises on the opposite side of the street. The concerns raised related to loss of sunlight to his premises (particularly in the winter months) and the congestion on the street and lack of parking. The Board order relating to a previous decision (ABP-306841-20) was attached with the observation.

## 7.0 **Assessment**

### 7.1. Introduction

- 7.1.1. I consider that the principal issues requiring consideration are the changes in design over that previously refused by the Board, impact on neighbouring properties, and parking.

### 7.2. Changes in Design

- 7.2.1. The Board refused planning permission under APB-306841-20 for the demolition of the existing retail unit on this site and the construction of a three-storey, 12 bedroom guest house for one reason relating to the failure of the design of the front elevation to make a positive contribution to the streetscape and the design of the rear portion being fragmented when viewed from adjoining streets to the north and from the grounds of St. Multose Church, thus detracting from the setting of the church and its grounds and failing to conserve the character of the Kinsale Architectural Conservation Area (ACA). The application before the Board has made a number of changes to the overall development, including an increased yard area adjoining the remembrance garden, a reduction by one bedroom at first floor level and the redistribution of internal space, the reduction in bedroom numbers from 5 to 4 at second floor level and the reduction in floor area at this level by the removal of the return at the rear. This has altered the appearance of the development from the rear due to the reduced scale of the development at second floor level. Regarding the front elevation and presentation to the street, there are substantial shopfront and fenestration changes. The proposed shopfront now has a distinct traditional appearance which ties in somewhat better with the historic streetscape. The orderly fenestration presentation also enhances the compatibility with the longer established premises in this area.
- 7.2.2. Having regard to the above, I am satisfied to conclude that the presentation of the development to the street constitutes a significant change to the character of the proposed development and forms one which would be more compatible with the town's ACA and historic structures in the vicinity. Regarding the rear elevation which



would be visible from within the grounds of St. Multose, it is notable that the presentation of this elevation would be significantly more subdued over that previously proposed. There would be a substantial reduction in the build out at second floor level, a less complex presentation of roof forms, and a general simplicity and order to the rear elevation. I am satisfied to conclude that the proposed development would have a substantially less visual presence when viewed from the church grounds, with much of the development somewhat masked by the existing boundary wall. Finally, regarding the north-west elevation and visibility from the neighbouring streets, the Board will note that the adjoining public house would substantially screen the proposed development when view from the east and north-west. Furthermore, the structured presentation of fenestration on this elevation would again introduce an order and balance when visible from the neighbouring streets.

- 7.2.3. Overall, it is my submission that the current proposal has adequately addressed the issues raised in the Board's previous reason for refusal. I am of the view that the proposed design would be compatible with the form and character of the Kinsale ACA and that it would not be in conflict with any development plan objective or policy which seek to respect, conserve or enhance the established character of the ACA.

### 7.3. Impact on Neighbouring Properties

- 7.3.1. The first observation that I must make relating to this issue is that the planning authority appears to have failed to consider the third party submission from the owner of the Tap Tavern and did not assess or address in any way the issues raised by the third party. This disregard of third party submissions is most unacceptable in my opinion. The third party paid a fee to the planning authority, raised their concerns and these concerns appear to have been ignored.
- 7.3.2. I note the grounds of the appeal and my considerations are as follows:
- The proposed development would be sited in a town centre location where there is a wide range of uses including retail, other commercial, and residential uses. There is established tourist accommodation in the immediate vicinity of this site. The public house is a long-established premises at this

location. The nature of the public house use is clearly understood in this town centre location. The applicant would have a clear understanding of the town centre location, the mix of uses, the day and night-time activities that prevail in a town centre location, etc. Clearly, the appropriate provisions to minimise noise forms a basic part of the design for a development of this nature at this location. It is also understood from the proposed development that it seeks to include a dining area that would be open to the public. Thus, the development itself would include a commercial use with potential to impact on those staying overhead. I consider the range of uses within the proposed development, being a restaurant/dining area and tourist accommodation, would not undermine the functioning of a long-established adjoining commercial development, including any established use of the public house's courtyard.

- The Board will note the orientation of development at this location and the built-up nature of development in this town centre. There is an existing structure on the site and the adjoining alley separating the existing public house and the site is already affected by the existing premises and the confined nature of the alley. The proposed development would not encroach on the alley and its function as an access to the side of the existing public house would remain. The town centre location and the need for appropriate redevelopment of this site requires to be understood and the proposal would not undermine the functioning of the alley or eliminate light to it.
- The windows of the public house which face onto the alley are already subject to significant overshadowing by the existing structure on the site arising from the height and proximity of the retail outlet and the narrow width of the alley. The proposed development forms a suitable infill proposal of appropriate scale, height and design at this town centre location. Whatever marginal reduction in light that would result from the proposed development must clearly be balanced against the need for the site's redevelopment, the town centre location, and the existing restricting effects that already exist at this location.
- The proposal constitutes an appropriate infill at a sensitive town centre location. It would remove an unsightly development and infill a gap in the streetscape in a balanced and orderly manner. The impact on approaches to

this location and on views of structures in the vicinity would be enhanced. I note that views through this site to the neighbouring church are not protected views.

- I am satisfied that the proposed development has substantively addressed the issues raised in the Board's previous reason for refusal for the reasons set out earlier in this assessment.
- I accept that the Planner gave very little consideration to the issues raised by the third party to the planning authority.
- I consider that the impact on St. Multose has been appropriately addressed for the reasons set out earlier in this assessment.

7.3.3. Regarding the observer's submission on loss of light to his premises, which is on the opposite side of the street at Guardwell, the Board will again note the orientation of structures at this location. The proposed development would replace an unsightly development on this site and provide for a suitably scaled infill development. The proposal would have no impact on light to the observer's premises on the opposite side of the street.

#### 7.4. Parking

7.4.1. I note that the appellant raised concerns relating to overdevelopment of the site due to the lack of parking and amenity and that the observer also raised congestion and parking concerns. Regarding amenity, I submit that the nature of the proposed uses, i.e. a dining room/restaurant and overhead tourist bedrooms, is adequately accommodated internally in terms of amenity provisions for visitors. My considerations on parking and congestion follow.

7.4.2. Kinsale is a principal tourist town in County Cork with seriously deficient provisions for public parking in the town centre during the holiday season, which in the case of this town is a lengthy season as it is the town's principal function. The primary mode of transport to this town is by car. There is no rail service and no regular bus service. Tourists mainly travel to this tourist destination by private car. This is not going to

change in any medium term. The Area Engineer sought to raise this issue but the matter was not addressed in any meaningful way by the planning authority. Suggesting that the tile shop has a parking demand for 16 parking spaces ignores the entirely different use proposed for this site, namely accommodation for tourists, most of whom will travel by car and who require parking. This use is not comparable with a shop use which is not accommodating on-site overnight stays by visitors. I submit to the Board that the planning authority cannot avoid this issue by maintaining that the demand for parking by the retail outlet (which provides no parking anyway) is equal to or greater than the proposed restaurant / overnight accommodation use and by observing that the adjoining guesthouse/hostel provides no parking either. What is disconcerting is that it appears that the planning authority has no plan to do anything to resolve the parking dilemma from the details that are available on this planning application. The Area Engineer is correct in not shying away from this issue. This is a very serious traffic issue for the town of Kinsale and the proposal would compound it. Further to this, I must ask: Is this really the type of use one should have in a town centre without parking for those visitors who will occupy the building who will be travelling by car? I submit that if this was another similar type of use with visitor bedroom accommodation and a restaurant, such as a hotel development, the failure to provide for parking would be seen to be unsustainable. I ask: What makes this proposal different? This is not sustainable development in isolation of any coherent strategy to address the town's parking deficiencies and to serve this proposed development. This issue cannot, and should not, be avoided when deciding on this proposal. It is unsustainable development in isolation of definitive parking provisions.

### *Appropriate Assessment*

The site of the proposed development is located within the serviced, urban, town centre area of Kinsale. There are no European sites on, in or near Kinsale. Having regard to the nature, scale, and location of the proposed development, the serviced nature of the proposed development, the nature of the receiving environment, and the separation distance to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be

likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

- 8.1. Traffic congestion arising from the lack of car parking is a serious problem in Kinsale. The proposed tourist accommodation does not provide any parking and will add to the problem. This is a wholly different type of use from the tile shop that is on site and requires parking provisions to be made for those intending to stay at the accommodation. There is no understanding of how the planning authority is going to address this problem in the immediate term to serve this development, based on what is known from the planning authority's considerations of this application. This proposed development is unsustainable in isolation of any meaningful, firm proposal to provide for parking needs. Maintaining that the shop already has a parking demand for 16 spaces, that a neighbouring premises has no parking, or even requesting a financial contribution is avoiding the issue. I recommend that permission is refused in accordance with the following reason and considerations.

## **9.0 Reasons and Considerations**

Having regard to the nature of the proposed accommodation use and the requirement for parking to facilitate such use, the deficiencies in public parking in the town centre of Kinsale to serve the proposed development, to the lack of any proposals to provide for additional public parking in the vicinity of the site, to the significant traffic congestion at this town centre location, and to the lack of on-site parking to serve the proposed development, it is considered that the proposed development would result in undesirable on-street parking and would create serious traffic congestion on the adjoining narrow streets.

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Kevin Moore  
Senior Planning Inspector

18<sup>th</sup> November 2021