



An
Bord
Pleanála

Inspector's Report ABP319174-23

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| Development | Change of use of the ground floor unit from retail to a family entertainment centre; new signage; and all associated site development works. |
| Location | 13 Main Street, Kinsale, Co. Cork. |
| Planning Authority | Cork County Council. |
| Planning Authority Reg. Ref. | 235903. |
| Applicant | Barnview Limited. |
| Type of Application | Planning permission. |
| Planning Authority Decision | Permission. |
| Type of Appeal | Third Party |
| Appellants | John Lee and Mary Lee |
| Observer(s) | None. |
| Date of Site Inspection | 16th April 2024. |
| Inspector | Derek Daly. |

1.0 Site Location and Description

- 1.1. The proposed site is located in the centre of the town of Kinsale in County Cork. It is a three storied terraced property fronting onto the inner edge of the public footpath. The adjoining properties are two storied in height.
- 1.2. The area has a wide variety of commercial uses in the immediate vicinity reflecting the town centre which includes retail, financial services and premises offering a range of services and food related outlets.
- 1.3. The application site is adjoined by a retail shop and solicitors office.

2.0 Description of Development

- 2.1. The proposed development is for the change of use of the ground floor unit from retail to a family entertainment centre; new signage; and all associated site development works.
- 2.2. The proposal as submitted proposed to retain the existing shop front and to provide new signage. The stated floor area of the proposed change of use is 76.27m². The upper floors of the property are not the subject of this change of use.
- 2.3. In a cover letter submitted to the planning authority on the 20th September 2023 with the application it was indicated that the ground floor of the property is in vacant use while the upper floors are in residential use.
- 2.4. Further information was submitted on the 11th January 2024 indicating that the proposed use will be used as a kid's entertainment centre aimed a children aged 3 to 12; the hours of operation are 11am to 10pm and kiddie rides will be placed throughout the space and no gambling machines are proposed. It was also indicated that there is no intention to merge the development with a casino on Pier Road which is in the applicant's ownership. Clarification was also given in relation to the shop front.

3.0 Planning History

None relevant

4.0 Local Planning Policy

4.1. Local Policy

The relevant plan is the Cork County Development Plan 2022-2028

The current CDP 2022 volume 5 (West Cork) identifies Kinsale as a Main Settlement within the Bandon Kinsale Municipal District and includes a plan for the town.

The site is within the zoning town centre and the plan notes that Kinsale developed as a Medieval, coastal walled town which has created an organic, fine grained urban structure within the historic centre around Market Street.

The retail environment within the town is distinctive and characterised by a colourful medieval townscape of winding, narrow streets and traditional shopfronts which are an intrinsic part of its character and associated designation as an Architectural Conservation Area. There is evidence that the quality and design of shopfronts within the historic town centre have deteriorated within the town centre which is a designated Architectural Conservation Area.

The Plan's objective is to continue to protect the historic fabric of the town centre and highlights vacancy rates in Kinsale town centre continue to be amongst the lowest in the County and the importance of tourism as the town attracts large numbers of visitors.

The site is located within an Architectural Conservation Area which includes a large section of the historic core of the town. The structure which is the subject of this appeal is not a Protected Structure and the building is listed in the National Inventory of Architectural Heritage (NIAH) ref 20851117.

Plan Objective ZU 18-17 relates to land zoning and promoted the development of town centres. Within Town Centres recreation uses and leisure facilities will be considered in the town centre zoning.

The current plan superseded the Kinsale Town Council Development Plan 2009 which made reference to night-time uses in the town centre and which sought to strike a balance and maintain an appropriate mix of uses, noise, safeguarding vitality and viability and litter control measures.

5.0 Natural Heritage Designations

None relevant. The site is not within a Natura Site or directly connected with a Natura Site.

6.0 Planning Authority Decision

6.1. The decision of the planning authority was to grant planning permission subject to four conditions.

6.1.1. Condition no 1 limits the use of the premises and that the proposed premises shall be used only as family entertainment centre (no gaming casino gambling) and a change of this use shall not take place without benefit of a further planning permission, notwithstanding the exempted development provisions of the Planning & Development Regulations, 2001, as amended.

6.1.2. Condition no 2 outlines times of operation.

6.1.3. Condition no.3 limits the use of advertisement and regulates the shopfront.

6.2. Planning Authority Reports

6.2.1. Planning Report

The planning report dated the 9th November 2023 refers to the provisions of the current County Development Plan and refers to other reports of the planning authority and noted submissions from third parties. The report recommended further information referring to the need to get clarity in relation to verification regarding what sort of 'family entertainment centre' they are proposing with the indicative floor plan.

The conservation officer report dated the 26th October 2023 indicated no objections subject to conditions.

The planning report dated the 29th January 2024 refers to the further information received and recommends permission.

7.0 Third Party Appeal

7.1. Grounds of Appeal

7.1.1. The appellant's main grounds of appeal can be summarised as follows:

- The appellants refer to submissions made to the planning authority in the course of the planning application and submission made by other parties.
- The proposal is insensitive, inappropriate and injurious to the area.
- Reference is made to the response to further information which includes significant changes to the pattern and layout of the proposed development.
- The proposed development will result in the loss of residential amenity use in the building with an absence of information in relation to noise suppression.
- The proposed development will have an injurious impact on the receiving environment and adverse consequences on adjoining properties with reference to hours of opening, gatherings, litter, noise and general nuisance.
- Reference is made to the current character of the area which is a calm and user friendly atmosphere which is reflected in the current development.
- Reference is made to the hours of opening which is for a children's facility and the levels of noise and other activities which will arise.
- No conditions in relation to noise are included.
- The level of services provided are questioned in relation to facilities for staff and patrons and considered to be inadequate.
- There is no justification to suggest the change of use is required.
- The change of use will not protect or improve the unique identity or character of Main Street.
- The development conflicts with current county development plan requirements and reference in this regard is made to chapter 3 of Volume 1, to the use and reuse of upper floors, making town centres living centres and the promotion of the town of Kinsale as a tourism centre.

- The links to the applicant's existing arcade/casino off Pier Road are referred to.
- The absence of assessment of the current area is referred to in considering the application and the impact on adjoining properties and the area or the vision for the area as outlined in the current development plan.

8.0 Appeal Responses

8.1. The applicant in a response dated the 21st March 2024 in summary refers to;

- The response by way of context refers to the provisions of the current development plan, the site's zoning and permitted uses in the zoning.
- The property is largely vacant since 2017 and the proposal will bring back the property to active use.
- The applicant reiterates that the proposed change of use is for a children entertainment centre aged 3 to 12 years, that Kinsale is tourism town and the proposal will contribute to the activities offered to families visiting the town and the hours of operation are appropriate for the age group and holiday makers.
- The development has limited capacity and limited potential for loitering and noise on the street.
- The changes in layout arise from a response to further information and the level of staffing referred to in the grounds of appeal are excessive and unnecessary.
- It is not anticipated that the development will give rise to a high and significant level of noise limited to the hours of operation and will not make residential accommodation in the upper floors impossible.
- Appropriate standards will be met for the upper floors which is not the subject of the current application.
- The proposed development plan complies with the provisions of the development plan and supporting town centre areas.
- The appeal site and the site on Pier Road both of which are in the applicant's ownership and physically detached.

- The issue of impact on residential amenity was assessed by the planning authority.

8.2. The Board referred the proposed development to a number of statutory consultees and no response was received.

9.0 EIA Screening

Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

10.0 AA Screening

Having regard to the modest nature and scale of development, its location in an urban area, connection to existing services and absence of connectivity to European sites, 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.

11.0 Assessment

11.1. The main issues in this appeal are those raised in the planning authority's decision to grant permission and the grounds of appeal. I am satisfied that no other substantive issues arise.

The issues are addressed under the following headings:

- Principle of the development.
- The grounds of appeal.
- Built Heritage.

11.2. Principle of the development.

11.2.1. The proposal as submitted is for the change of use of the ground floor unit from retail to a family entertainment centre and for new signage.

The site is within the town centre zoning and within the town centre recreation uses and leisure facilities will be considered in the town centre zoning. The proposed change of use is acceptable in principle subject to compliance with other stated provisions of the County Development Plan.

11.3. Grounds of appeal

- 11.3.1. The appellants refer to the proposal is insensitive, inappropriate and injurious to the area; to significant changes to the pattern and layout of the proposed development; the loss of residential amenity use in the building; will have an injurious impact on the receiving environment and adverse consequences on adjoining properties with reference to hours of opening, gatherings, litter, noise and general nuisance with no conditions in relation to noise included. Reference is also made to the current character of the area which is a calm and user friendly atmosphere which is reflected in the current development; to the hours of opening which is for a children's facility and the levels of noise and other activities which will arise; the level of services provided are questioned in relation to facilities for staff and patrons and considered to be inadequate and the change of use will not protect or improve the unique identity or character of Main Street.
- 11.3.2. In responding to the grounds of appeal the applicant refers to the provisions of the current development plan, the site's zoning and permitted uses in the zoning; the property is largely vacant since 2017 and the proposal will bring back the property to active use; reiterates that the proposed change of use is for a children entertainment centre aged 3 to 12 years; that Kinsale is tourism town and the proposal will contribute to the activities offered to families visiting the town and the hours of operation are appropriate for the age group and holiday makers; that the development has limited capacity and limited potential for loitering and noise on the street and it is not anticipated that the development will give rise to a high and significant level of noise limited to the hours of operation and will not make residential accommodation in the upper floors impossible.
- 11.3.3. In relation to the proposed use, I would note that it is located in a town centre area with a diverse range of uses providing services, retail, food and drink outlets with day and night time trade and opening hours. Kinsale in addition to providing services to meet the hinterland is also an important tourist centre and the proposed use will offer

an additional service to meet the tourism product of the town which offers a range of tourism product to cater for visitors which include families with children.

11.3.4. In this context I do not consider that the use as proposed is inappropriate, insensitive and injurious to the area. I do not consider that the proposed change of use will result in a loss of residential amenity use in the building or have an injurious impact on the receiving environment and immediate area.

11.3.5. I note that the conditions of the planning authority's decision limit the use of the proposed change of use to be used only as family entertainment centre with no gaming casino gambling and the hours of use for the permitted use are limited to between the hours of 11:00 to 22:00 only which precludes late night opening and these conditions are, I consider, reasonable.

11.4. Built heritage.

11.4.1. The site is located within an Architectural Conservation Area which includes a large section of the historic core of the town. It is noted that the structure which is the subject of this appeal is not a Protected Structure and the building is listed in the National Inventory of Architectural Heritage (NIAH) ref 20851117.

11.4.2. The proposal as submitted provides for limited amendments to the front elevation in effect repainting an existing shopfront and subtle overhanging lighting and no illumination.

11.4.3. I note that the Conservation Officer indicated no objections owing to the very limited physical changes subject to shopfront design as a condition to safeguard this and this was included as a condition of the planning authority's decision. I would have no objections to the details as submitted.

11.5. Services

11.5.1. In relation to access and traffic related matters I would have no objections to the details submitted.

12.0 Recommendation

12.1. I recommend that permission be granted.

13.0 Reasons and Considerations

Having regard to the location of the site which is located within the town centre of Kinsale, the pattern of existing and permitted development in the vicinity which includes a diverse range and mix of uses, the provisions of the current Cork County Development Plan 2022-2028 and the site's location within the development boundary of the town of Kinsale it is considered that the proposed development would be in accordance with the stated provisions of the current Cork County Development Plan 2022-2028. It is also considered that, subject to compliance with the following conditions, the proposed development would not adversely impact the character of the town centre area or be seriously injurious to the visual or residential amenities of the area or the Architectural Conservation Area within which the site is located. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

14.0 Conditions

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| 1. | <p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 20th September 2023 and the 11th January 2024 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.</p> <p>Reason: In the interest of clarity.</p> |
| 2. | <p>The proposed premises shall be used only as family entertainment centre (no gaming casino gambling) and a change of this use shall not take place without benefit of a further planning permission, notwithstanding the exempted development provisions of the Planning & Development Regulations, 2001, as amended.</p> <p>Reason: In the interest of orderly development and to safeguard the amenities of the area.</p> |

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| 3. | <p>The permitted use shall operate between the hours of 11:00 to 22:00 only.</p> <p>Reason: In the interest of orderly development and to safeguard the amenities of the area.</p> |
| 4. | <p>Advertisement shall be hand painted lettering on the fascia board only, no signage is permitted in the shop windows, and there shall be no external or spot light illumination of the shop front.</p> <p>Reason: In the interest of visual amenity and to ensure shop frontage causes no harm to the setting and character of the Architectural Conservation Area and nearby protected structure(s).</p> |

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Derek Daly
Planning Inspector

29th May 2024