



An
Bord
Pleanála

Inspector's Report ABP-319513-24

Development	Change of use from funeral home to use as restaurant/coffee shop
Location	The Mall, Youghal-Lands, Youghal, County Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	23/6155
Applicant(s)	Boardwalk Coffee Limited
Type of Application	Retention Permission
Planning Authority Decision	Notification to Grant
Type of Appeal	Third-Party
Appellant(s)	Jerry Dennehy
Observer(s)	None
Date of Site Inspection	5 th February 2025
Inspector	Gary Farrelly

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.26 hectares and comprises of a four-bay three-storey terraced property which fronts the Mall in Youghal, County Cork. The site is located opposite Youghal town hall. The subject property is known as Egan House and has a regional rating within the national inventory of architectural heritage (NIAH) survey for its architectural and artistic special interest. However, the structure is not listed as a protected structure under the Cork County Development Plan 2022-2028.
- 1.2. The property is located within the Youghal Architectural Conservation Area (ACA) and is located within Flood Zone A.

2.0 Development

- 2.1. Retention permission is sought for the change of use of the premises from a funeral home and ancillary services to a restaurant and coffee shop. Fixed advertising signage on the shop front is also proposed to be retained. The floor area of the premises measures 98.40sqm. The property is connected to the public water and wastewater mains.

3.0 Planning Authority Decision

3.1. Decision

The planning authority (PA) decided to grant permission by Order dated 20th March 2023, subject to 9 no. conditions.

- Condition no. 3 clarified the permission granted only related to within the redline boundary. The structures within the public road were requested to be removed within 1 week.
- Condition no. 4 imposed no operational hours outside of 8:30am to 5pm Monday to Saturday and 9am to 5pm on Sundays.
- Condition no. 5 prohibited the use of the doorway adjacent to the service/preparation area as a takeaway service.
- Condition no. 6 restricted noise levels emanating from the development.

3.2. Planning Authority Reports

Planning Report

There are a total of 2 no. area planner (AP) reports which assessed the development in terms of, inter alia, its principle, flooding, unauthorised development, design and architectural heritage, residential amenity, screening for appropriate assessment and parking and road safety. The AP requested further information as part of the first report and after submission of the further information the AP recommended a grant of permission subject to conditions.

Other Technical Reports

Engineering Report (dated 14/12/23 & 12/03/24) – This report considered that the change of use did not alter the flood risk to the property, nor had it increased the flood risk elsewhere. There was no objection to a grant of permission.

Environment Report (dated 01/12/23 & 05/03/24) – There was no environmental objection to a grant of permission subject to conditions.

Conservation Report (Dated 27/11/23) – This report outlined no objection to the development and considered that the change of use would not adversely impact the character of the ACA. The signage to the front was considered minimal and appropriate to the building and the use of individual letters was recommended.

3.3. Prescribed Bodies

Uisce Éireann – It had no objection to the development subject to a connection agreement.

3.4. Third Party Observations

There was 1 no. observation received from Jerry Dennehy which raised concerns with the operation of the premises without proper authorisation, the obstruction of public spaces, disability access, fire safety and noise pollution.

4.0 Relevant Planning History

An Bord Pleanála ref. 315684 / PA ref. D/277/22

Boardwalk Coffee Limited submitted a referral seeking a declaration as to whether the change of use of a premises from a funeral home to a coffee shop was or was not development and, was or was not exempted development. On 16th May 2024, the Board determined that the development was not exempted development.

An Bord Pleanála ref. 313437-22 / PA ref. EF/22/067

On 10th March 2023, a Section 254 licence was granted by the Board for the provision of an outdoor seating area covering two public parking spaces. Conditions were attached that validated the licence until the last day of December 2022, that prohibited the occupation of the facility after 1700 hours and that required the licensee to have a public liability and employers insurance cover.

PA ref. 94/58001

Permission was granted for the continued use of the premises as a funeral home.

5.0 Policy Context

5.1. Cork County Development Plan 2022-2028

The subject site is zoned 'Town Centre/Neighbourhood Centres'.

Objective ZU 18-17: Town Centres/Neighbourhood Centres

a) Promote the development of town centres and neighbourhood centres as the primary locations for retail and other uses that provide goods or services principally to visiting members of the public.

Objective TCR 9-2: Vacancy and Regeneration

c) Promote the appropriate revitalisation of vacant and derelict properties and to facilitate the adaptation of existing property in town centre areas for retail, residential and other town centre activities.

Objective TCR 9-20: Shopfronts and Signage

a) Ensure new shopfront (and signage) design respects and enhances the character and architectural heritage of the existing streetscape. Encourage, where appropriate, the use of contemporary shop front design.

Objective HE 16-18 Architectural Conservation Areas

g) Ensure all new signage, lighting advertising and utilities to buildings within ACAs are designed, constructed and located in such a manner they do not detract from the character of the ACA.

Volume 4: Section 3.4 Youghal

Objective YL-T-01 Town Centre Core Area

a) Promote the development of this area as the primary location for retail and other uses that provide goods or services principally to visiting members of the public and the priority area and preferred location for new retail development.

e) Encourage a sustainable mix of land uses in the core retail/town centre area.

5.2. Natural Heritage Designations

The subject site is not located within any designated site. The nearest designated site is the Blackwater River (Cork/Waterford) Special Area of Conservation (SAC) (Site Code 002170) which is located approximately 20 metres east of the site and the Blackwater River and Estuary proposed Natural Heritage Area (pNHA) which is located approximately 65 metres southeast of the site. The Blackwater Estuary Special Protection Area (SPA) (Site Code 004028) is also located approximately 500 metres northeast of the site.

5.3. Environmental Impact Assessment (EIA) Screening

The subject change of use is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. I refer the Board to Appendix 1 of the report in this regard.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal was lodged to the Board by Mr. Jerry Dennehy on 15th April 2024. The grounds of appeal are summarised as follows:

- The approval of this application allows the operator to continue to place outdoor seating on the footpath outside the appellant's property. In 2023 it was noted that there was no licence for such an activity, and it is unauthorised.
- It is questioned why the PA only sought the removal of the bike rack, billboard and flowerpots. The placing of bicycles on the footpath further obstructs the path making it not passible.
- The parking of cars along the area of the tables and chairs has created traffic jams on the one-way street which is problematic given the proximity of the fire station.
- The building which dates back to 1930 holds significant importance in terms of architectural conservation and any alterations or additions, such as signage, should be in compliance with preservation standards.
- Concerns are raised regarding the recent installation of new toilets and storage room for combustible materials which increases the risk of a fire hazard.
- Alternative solutions should be explored to ensure the well-being and quality of life of the residents are not compromised.

6.2. Applicant Response

The applicant did not issue a response to the grounds of appeal.

6.3. Planning Authority Response

The PA issued a response on 10th May 2024 and considered that all the relevant issues have been covered in the technical reports already forwarded to the Board and had no further comment to make. It was also advised on 22nd May 2024 that no formal pre-planning consultation took place.

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, the reports of the local authority, and having inspected the site, and having regard to the relevant local, regional and national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of the Development
- Traffic Safety
- Residential Amenity
- Built Heritage

Principle of the Development

7.2. The subject premises is located within lands zoned as 'Town Centre/Neighbourhood Centres' under the Cork County Development Plan 2022-2028 (CDP) where objective ZU 18-17 seeks to promote these areas as the primary locations for retail and other uses that provide goods or services principally to visiting members of the public. Furthermore, the property is located within specific objective YL-T-01 for Youghal which also seeks to promote the area as per objective ZU 18-17 and encourage a sustainable mix of land uses in the core retail/town centre area.

7.3. I consider that the change of use of the premises to that of a restaurant and coffee shop complies with the land use zoning of the site. Therefore, I consider that the development is in accordance with objectives ZU 18-17 and YL-T-01 of the Cork County Development Plan 2022-2028 and is acceptable in principle.

Traffic Safety

7.4. The third-party appellant has raised a number of concerns with outdoor activity associated with the restaurant/coffee shop use including the placing of chairs and tables on the public footpath and car parking spaces and its impact on traffic and pedestrian safety. The Board should note that any such outdoor structures would require a Section 254 licence under the Planning and Development Act 2000, as amended. However, the Board should note that this area does not form part of the application boundary. Additionally, it should be noted that if such area is operating

without such a licence, then it would be a matter of enforcement which falls under the jurisdiction of the planning authority.

- 7.5. Notwithstanding this, having inspected the site I noted that there was adequate parking available along the street and, therefore, I am satisfied that the proposed change of use would be acceptable in terms of traffic safety.

Residential Amenity

In terms of residential amenity concerns, I note that the applicant stated that the premises would operate between the hours of 06:45 and 17:00 Mondays to Saturdays and between the hours of 7:45 and 17:00 on Sundays. However, I note the PA conditioned for operational hours to be only between 8:30 and 17:00 Mondays to Saturdays and between 09:00 and 17:00 on Sundays which I consider more reasonable in the interest of protecting residential amenity.

Built Heritage

- 7.6. The third-party appellant has questioned the signage associated with such an historical building. I note the PA's conservation report on file which raised no concerns of the impact of the change of use or the mounted signage on the character of the ACA.
- 7.7. Having inspected the site and noted the signage in question on the front of the building comprising of individual lettering, it is my view that it does not detract from the character of the building or the Youghal ACA. Therefore, I consider it in accordance with objectives TCR 9-20 and HE 16-18 of the CDP.

Other Issues

Fire Safety

- 7.8. The appellant has also raised concerns regarding fire safety with regards to the location of a storage room. The Board should note that the issue of compliance with building regulations would be evaluated under a separate legal code and thus need not concern the Board for the purposes of this appeal.

Flood Risk

- 7.9. The Board should note that the PA considered that as there was no material change to the structure of the building or to the amount of surface water arising, the change of

use would not alter the flood risk to the property or increase it elsewhere. Whilst the subject site is located within Flood Zone A, the Board should note that I have no significant concerns regarding flood risk having regard to the nature of the change of use.

8.0 **Appropriate Assessment (AA) Screening**

8.1. I have considered the project in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. The subject site is located approximately 20 metres west of the Blackwater River (Cork/Waterford) Special Area of Conservation (SAC) (Site Code 002170) and approximately 500 metres southwest of the Blackwater Estuary Special Protection Area (SPA) (Site Code 004028).

8.2. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site. The reason for this determination is as follows:

- To the minor scale and nature of the change of use development.
- To the location of the proposed development within a built-up urban area and to the built up nature of the surrounding area.
- To the treatment of wastewater and surface water via the public mains.
- To the distance from the nearest European sites regarding any other potential ecological pathways and intervening lands.
- Taking into account the screening determination by the PA.

8.3. I consider that the development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is, therefore, not required. No measures intended to avoid or reduce harmful effects on European sites have been taken into account in reaching this determination.

9.0 **Recommendation**

I recommend to the Board that permission is **Granted** for the following reasons and considerations.

10.0 Reasons and Considerations

Having regard to the ZU 18-17 and YL-T-01 zoning objectives pertaining to the site under the Cork County Development Plan 2022-2028, it is considered that the change of use from a funeral home and ancillary services to restaurant/coffee shop use, subject to compliance with conditions set out below, would not detract from the residential amenities of the area, would be acceptable in terms of traffic safety and would not unduly impact on the character of the Youghal Architectural Conservation Area. The development to be retained would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be retained in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 22nd day of February 2024, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. No further change of use shall take place without the benefit of a further planning permission, notwithstanding the exempted development provisions of the Planning and Development Regulations 2001, as amended.

Reason: To protect the residential amenities of property in the vicinity of the site.

3. The premises hereby permitted shall not operate outside the hours of 0830 to 1700 Mondays to Saturdays and 0900 to 1700 on Sundays.

Reason: In order to safeguard the amenities of adjoining residential properties.

4. The doorway adjacent to the service/preparation area shall not be used for the purpose of service associated with the use of the premises. This includes the taking of orders or the serving of take away products.

Reason: In the interest of residential amenity.

5. No external amplified music shall play within the curtilage of the site.

Reason: To protect the amenities of the area.

6. During the operational phase of the proposed development the noise level shall not exceed (a) 55 dB(A) rated sound level between the hours of 0700 to 2300, and (b) 45 dB(A) 15min and 60 dB LAfmax, 15min at all other times , (corrected for a tonal or impulsive component) as measured at the nearest dwelling.

Reason: To protect the residential amenities of property in the vicinity of the site.

7. The front of the premises shall conform to the following requirements:

(a) No awnings, canopies or projecting signs or other signs shall be erected on the premises without a prior grant of planning permission; and

(b) External roller shutters shall not be erected and any internal shutters shall be of the 'open-lattice' or 'perforated' type and shall be coloured to match the shopfront colour.

Reason: In the interest of the visual amenities of the architectural conservation area.

8. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, 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: In the interest of the visual amenities of the area.

9. (a) All foul sewage and soiled water shall be discharged to the public foul sewer.
(b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.

Reason: In the interest of public health.

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.

Gary Farrelly
Planning Inspector

11th February 2025

Appendix 1: EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-319513-24			
Proposed Development Summary	Change of use from funeral home to restaurant/coffee shop			
Development Address	The Mall, Youghal, County Cork			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X	
		No	No further action required	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?				
Yes			Proceed to Q.3	
No	X		No further action required	
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?				
Yes				EIA Mandatory EIAR required
No				Proceed to Q.4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?				
Yes				Preliminary examination required (Form 2)
4. Has Schedule 7A information been submitted?				
No		Pre-screening determination conclusion remains as above (Q1 to Q4)		
Yes		Screening Determination required		