



An
Bord
Pleanála

Inspector's Report

ABP-320077-24

Development	PROTECTED STRUCTURE: Retention for temporary marquee at the Haven Hotel.
Location	Haven Hotel, Dunmore East, Co. Waterford, X91 W322
Planning Authority	Waterford City and County Council
Planning Authority Reg. Ref.	2460183
Applicant(s)	Integon Limited
Type of Application	Temporary Retention Permission.
Planning Authority Decision	Refused
Type of Appeal	First Party
Appellant(s)	Paul Kelly
Observer(s)	Michael & Jean Farrell.
Date of Site Inspection	2 nd September 2024.
Inspector	Jennifer McQuaid

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1.0 Site Location and Description

- 1.1. The subject site is located in the grounds of Haven Hotel within the settlement boundary of Dunmore East, Co. Waterford. The hotel is located on an elevated site facing east towards the coastline. The site is accessed via the R684, regional road.
- 1.2. The Haven Hotel is in operation and is a protected structure, RPS WA750103, NIAH number 22817021, the building is described as detached five bay two storey over basement house, built 1861 – 1864. Dunmore East is designated as an Architectural Conservation Area (ACA).

2.0 Proposed Development

- 2.1. The retention development consists of temporary permission for erection of 1 no. marquee structure for 6 months. The total floor area is c.320sqm.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission on 6th June 2024 for the following reason:

Having regard to the applicant's previous record of non-compliance with conditions of planning permission, the results of the noise monitoring carried out by the Planning Authority in the vicinity of the subject site which showed repeated exceedances of established noise limits, and the number of complaints received by the Planning Authority regarding noise nuisance from the temporarily permitted marquee structure which has been replaced by the current unauthorised structure, it is considered that the use of the unauthorised marquee structure for large public gatherings and events would be likely to result in significant noise nuisance to the residents of adjacent property which would negatively impact on the residential amenities of those residential units and would otherwise be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planners report discusses the following issues:

- Principle of a marquee is acceptable as it is considered ancillary to the main hotel.
- No justification for the retention of the marquee for a further 6 months, 18 months already granted.
- Noise is a continuous issue and received a number of complaints. The report states music performed or broadcast, whether amplified or not shall be prohibited.
- No Architectural Heritage Impact Assessment submitted.

3.2.2. Other Technical Reports

- Environment: Noise limits breached on previous temporary permission; mitigation measures were inadequate. Environment recommended no music shall be performed or broadcast within the marquee.

3.3. Prescribed Bodies

- None

3.4. Third Party Observations

- A third-party submission was received from O'Neill Town Planning, on behalf of Dr. Michael and Jean Farrell. The concerns raised were:
 - Planning history
 - Failure to comply with conditions of planning reference 20/703.
 - Inappropriate development type for the location
 - Impact on residential amenity – noise
 - Visual impact
 - Site zoning, non-conforming use and site suitability

- Impact on Protected Structure
- Inadequate car parking

4.0 Planning History

ABP-311244-21 (Planning Ref: 20703): Permission granted for function room extension, basement bar and courtyard, external courtyard and all ancillary works. 18 months temporary retention permission or a marquee structure. Granted on 14th June 2022.

20652: Retention permission granted for a playground, 2no. storage sheds, car parking and all ancillary works.

19543: Retention permission refused for 1no. marquee structure, 2 no. canopies. Refused for the following reasons: 1. Negative visual impact on the protected structure, 2. Noise disturbance, 3. Inadequate car parking.

90673: Retention Permission granted for 6-bedroom extension.

79757: Permission granted for a bungalow.

5.0 Policy Context

5.1. Development Plan

Waterford City & County Development Plan 2022-2028

The site is zoned as existing residential, the objective is to provide for residential development and protect and improve residential amenity. The rear of the site is zoned as Open space and Recreation, the objective is to preserve and provide for open space and recreational amenities.

The site is located in the Architectural Conservation Area (ACA) for Dunmore East.

The building hotel is a protected structure. RPS No. WA750103.

Volume 1, Chapter 11 relates to Built Heritage.

The following Policy Objectives shall be considered:

BH01: Record of Protected Structures.

BH05 Architectural Conservation Areas.

BH06 Architectural Heritage Impact Assessment.

BH12 Settings and Vistas.

Volume 2 Development Management Standards

Section 10.0 outlines specific planning guidelines for buildings contained within ACA's. It is stated that "An Architectural Heritage Impact Assessment (AHIA) will be required when considering development which may have a visual or physical impact on a protected structure, its setting or curtilage, or have an impact on the character of an ACA or an historic designed landscape".

Section 11.4 Temporary/Meanwhile Use – the council will facilitate existing uses or new uses on lands that are zoned for mixed use development where such proposals are of a nature and/or scale that they would not compromise the structure and sustainable development of the larger mixed use and site and wider area.

Section 11.5 relates to Ancillary Uses – where proposed development relates to an ancillary use i.e. One that relies on a permitted parent use for their existence and rationale, these will be considered on their own merits, having regard to the proper planning and sustainable development of the area.

5.2. Natural Heritage Designations

5.3. The site is not located within any Natura 2000 designated site. The following are in close proximity to the subject site:

- River Barrow and River Nore SAC (site code: 002162) located approximately 2.9km north.
- Hook Head SAC (Site Code: 000764) located approximately 4.5km east.
- Tramore Dunes and Backstrand SAC (Site Code: 000671) located approximately 4.9km west.
- Tramore Back Strand SPA (Site Code: 004027) located approximately 4.9km west.
- Lower River Suir SAC (Site Code: 002137) located approximately 9.7km north.

- Bannow SAC (Site Code: 000697) located approximately 12km east.
- Bannow Bay SPA (Site Code: 004033) located approximately 12km east.
- Mid-Waterford Coast SPA (Site Code: 004193) located approximately 12km west.

5.4. **EIA Screening**

5.5. The proposal relates to the retention permission for temporary marquee and associated works, the applicant has stated the site is connected to public sewer and public water and public drain, the site is located on zoned lands within the settlement boundary of Dunmore East town. The site is located on zoned lands and not within a protected designated site. Having regard to the limited nature and scale of the 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. Please refer to Form 1 and Form 2 as per Appendix 1 below.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

A first Party appeal was received from MDP + Partners acting on behalf of the applicant. The grounds of appeal can be summarised as follows:

- Construction of new function room has been delayed until September 2024.
- The marquee will be removed in mid-September.
- Marquee structure required to accommodate over 40 weddings which have been booked for over 3 years.
- Many other local events held in the hotel and the marquee is required until construction starts on the new function room.
- Noise is continually monitored.
- All health & safety regulations, fire regulations are complied with.

6.2. Applicant Response

- 1st party appeal – applicant response as above.

6.3. Planning Authority Response

- None

6.4. Observations

An observation has been received from O'Neill Town Planning on behalf of Dr. Michael & Jean Farrell, local residents. The concerns raised are:

- Noncompliance with a number of conditions including marquee was granted a temporary 18-month permission and noise limits & opening hour limits on the temporary marquee of the previous planning decision ABP-311244-21.
- Noise limits were previously exceeded and noted by Environment section in Waterford City and County Council, therefore Environment have recommended that music is prohibited.
- Observers are medical professionals, and they are directly and negatively affected by the noise from the marquee, interfering with their sleep and ensuring physical and mental anguish.

6.5. Further Responses

- 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
- Noise

- Appropriate Assessment

7.2. Principle of Development

- 7.3. There is an existing operating hotel (protected structure) on site. The marquee is situated to the front of the building on a terrace area. The subject site is located on lands zoned as RS, Existing Residential, the objective is to provide for residential development and protect and improve residential amenity. The rear of the site is zoned as OS Open space and Recreation, the objective is to preserve and provide for open space and recreational amenities. The temporary marquee is located on RS zoned lands. As such the proposal will be assessed under RS zoning.
- 7.4. The grounds of appeal advise that the marquee will be removed in mid-September as the construction of new function room will take place in September 2024. The construction was delayed, and the marquee is required to accommodate over 40 weddings which have been booked for over 3 years and to accommodate many other local events held in the hotel and the marquee is required until construction starts on the new function room.
- 7.5. An observation was received and state that noncompliance has occurred with planning decision ABP-311244-21 as the marquee was only supposed to be in place for 18 months but it is still in place over 2 years later.
- 7.6. As noted above the site is located in RS zoned lands, the hotel is considered to be open for consideration in the zoning matrix and therefore does not conflict with the zoning, I would consider the marquee to be ancillary to the main hotel and therefore is also open for consideration. The objective for RS zoned lands is to provide residential development and protect and improve residential amenity. In terms of the temporary marquee, planning reference ABP-311244-21 granted a temporary 18 months for the marquee as it would be followed by the provision of a permanent function room. The grounds of appeal state the construction of the new function room has been delayed but will commence in mid-September 2024. I visited the site on the 2nd of September 2024, the marquee was in place and has been for over 18 months, there was no evidence of construction on site. Given the nature of the temporary marquee and the location of the marquee on RS zoned lands, it is in my opinion that the marquee has the potential to have a negative impact on the residential amenity of the surrounding dwellings in terms of noise. The observation

submitted highlights the ongoing issues with noise from the marquee and it is further noted in the Environment Report with the planning application, that there were numerous instances of the noise limits been breached. Noise is discussed separately in the following section.

- 7.7. The grounds of appeal have not provided any information in relation to how the noise limits in the conditions of ABP-311244-21 can or have been complied with. And no information submitted in relation to how the proposal can protect and improve residential amenity for the surrounding dwellings. Therefore, I cannot determine if the temporary marquee can comply with the previous noise conditions or if the applicant intends to provide additional noise mitigation measures. I can only make my determination based on the observation received and the Environment report on the planning application.
- 7.8. Therefore, I can conclude that the temporary use of the marquee for an additional 6 months shall be refused as it does not comply with the zoning objective for RS zoned lands. The proposal has negatively impacted on the residential amenities of the area in terms of noise. In my opinion, the applicant has been given sufficient time (18 months plus the additional unauthorised months) to commence the construction of the new function room and/or to make alternative arrangements for functions planned. Therefore, I do not consider an additional 6 months for the temporary use of the marquee necessary or in the interest of residential amenity.
- 7.9. **Noise**
- 7.10. The temporary marquee is used to hold functions and music events. It is located to the front of the Haven Hotel. The structure is temporary and consists of tarpaulin roof cover over a frame type structure with glass doors. During my site visit, I noticed a bar and tables inside the structure.
- 7.11. Condition 3 of ABP-311244-21 relates to noise limits, noise emission levels are not to exceed the background noise level by more than 3dB(A) during the period 0800 to 2300 hours and by more than 1dB(A) at any other time, when measured at any external position adjoining an occupied dwelling in the vicinity.
- 7.12. The grounds of appeal advise that noise is continually monitored on site, however, no details have been submitted to confirm this and as part of condition 3 (g) of ABP-311244-21 a permanent noise monitoring point with equipment to IEC 61672

(minimum Class 2) shall be installed. Therefore, the applicant should be able to provide on-going up-to date noise information. The observation submitted states the noise limits were previously exceeded, and this was noted by Environment section in Waterford City and County Council. The observer also outlines that they are directly and negatively affected by the noise from the marquee which interferes with their sleep.

- 7.13. As outlined by the applicant the marquee is used for wedding events and other functions throughout the year. I note the report from Environment Section in Waterford City and County that noise monitoring was carried out and that there were numerous instances of the noise limits being breached. It is also acknowledged that there is a difficulty in complying with the conditions when there were music performances within the marquee and that any efforts to control the music level through abatement measures proved inadequate. The Environment section go on to say that in order to ensure noise level are not breached, it is necessary that no music be performed within the marquee. Having observed the temporary structure and the location of same to the front of the hotel with no natural screening and on top of a hill in addition to the type of functions taken place in the marquee, I consider noise will continue to have a negative impact on the surrounding area.
- 7.14. Therefore, having regard to the temporary marquee type structure, the location of the site in close proximity to existing residential dwellings and the continued breach of the noise level and non-compliance with condition 3 of ABP-311244-21, it is evident that noise levels cannot be maintained to a reasonable level and therefore, the retention of the marquee is not acceptable.

8.0 AA Screening

- 8.1. Having regard to the temporary retention permission for a marquee, connection to public sewer, public water, and public drain on zoned lands. The location of the site within the development boundary for Dunmore East town. The distance to the nearest European site at 2.9km northeast is River Barrow and River Nore SAC (site code: 002162). It is considered that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant impact individually or in combination with other plans or projects on a European site.

9.0 Recommendation

9.1. I recommend that temporary planning permission should be refused for the reasons and considerations as set out below.

10.0 Reasons and Considerations

1. Having regard to the zoning of the site, the objective of which is to “protect and improve residential amenity”, the temporary nature of the marquee, the evidence indicating excessive noise generated from the use of the proposal and the planning history of the site (ABP-311244-21). It is considered the curtailment of the use of the marquee would not comply with Condition 2(a) of ABP-311244-21 and the proposal would have a negative impact on the residential amenity of the area. Therefore, the temporary retention development, would contravene the said zoning objective and would be contrary to the proper planning and sustainable development of the area.

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.

Jennifer McQuaid
Planning Inspector

25th September 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-320077-24		
Proposed Development Summary	Retention of temporary marquee		
Development Address	Haven Hotel, Dunmore East, Co. Waterford		
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	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
			Conclusion
No		N/A	
Yes	X	Class 10(b)(iv) Infrastructure projects, Urban development which would involve an area greater than 2 hectares in the case of a business	The proposed development relates to a site size of 1.74ha on the grounds of an
			Proceed to Q.4

		district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.	existing hotel within the town boundary of Dunmore East.	
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ Date: _____

Form 2
EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP- 320077-24	
Proposed Development Summary	Temporary permission for marquee	
Development Address	Haven Hotel, Dunmore East, Co. Waterford	
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development. Is the nature of the proposed development exceptional in the context of the existing environment.</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<ul style="list-style-type: none"> • The development relates to temporary permission for a marquee. • The site is within the development boundary of Dunmore East and on zoned lands. • The development will consist of temporary retention for 6 months of a marquee. • The building is noted on the application form as connection to public sewer and public water, however, there are no toilet or water facilities connected within the marquee. Surface water will be disposed of to public drain. 	No

	<ul style="list-style-type: none"> • There are no direct source or pathway to a protected site. 	
<p>Size of the Development Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and / or permitted projects?</p>	<ul style="list-style-type: none"> • The subject site measures 1.74 hectares. The development is not exceptional in the context of the existing urban environment. • The site is located adjacent to an existing operating hotel. There is a church located to the north of the site and residential dwelling to the south and west of the site, however, there is no real likelihood of significant cumulative effects with the existing and permitted projects in the area. 	No
<p>Location of the Development Is the proposed development located on, in, adjoining, or does it have the potential to significantly impact on an ecologically sensitive site or location, or protected species?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area, including any protected structure?</p>	<ul style="list-style-type: none"> • The site is not located within any designated site. The nearest designated sites are: <ul style="list-style-type: none"> - River Barrow and River Nore SAC (site code: 002162) located approximately 2.9km north. - Hook Head SAC (Site Code: 000764) located approximately 4.5km east. - Tramore Dunes and Backstrand SAC (Site 	No

	<p>Code: 000671) located approximately 4.9km west.</p> <ul style="list-style-type: none"> - Tramore Back Strand SPA (Site Code: 004027) located approximately 4.9km west. - Lower River Suir SAC (Site Code: 002137) located approximately 9.7km north. - Bannow SAC (Site Code: 000697) located approximately 12km east. - Bannow Bay SPA (Site Code: 004033) located approximately 12km east. - Mid-Waterford Coast SPA (Site Code: 004193) located approximately 12km west. <ul style="list-style-type: none"> • My Appropriate Assessment Screening undertaken concludes that the retention development would not likely have a significant effect on any European Site. • The subject site is not located within a Flood Zone. 	
Conclusion		

There is no real likelihood of significant effects on the environment.

Inspector: _____

Date: _____

DP/ADP: _____
(only where Schedule 7A information or EIAR required)

Date: _____