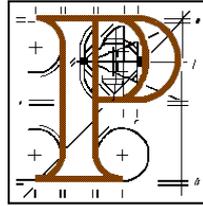


# An Bord Pleanála



## Inspector's Report

**PL09.244279**

### **DEVELOPMENT:-**

Change of use of ground floor unit 1 from previously approved retail use to betting office and all associated works at Unit 1, Clane Shopping Centre, Main Street, Clane.

### **PLANNING APPLICATION**

**Planning Authority:** Kildare County Council  
**Planning Authority Reg. No.** 14/891  
**Applicant:** Paddy Power Plc  
**Application Type:** Permission  
**Planning Authority Decision:** Refusal

### **APPEAL**

**Appellant:** Paddy Power Plc  
**Type of Appeal:** 1<sup>st</sup> Party  
**Observers:** (a) Emmet Stagg TD, (b) Clane Community Council, (c) Clane United Soccer Club, (d) Ms. Doreen Fortune, (e) Barbara Finlay, (f) Ms. Mary Larkin, (g) Mr. Marc Cummins, (h) Cllr. Pádraig McEvoy, (i) O'Neill Planning Consultants, (j) Ms. Jennifer Kinsella.

**DATE OF SITE INSPECTION:** 10.2.2015

**INSPECTOR:** Robert Ryan

## **1.0 SITE LOCATION AND DESCRIPTION**

The appeal site is located on the western side of Main Street, Clane. Clane is a small town of c.7,000 persons located c.9 kilometres north of Naas Town Centre and c.12 kilometres south of Kilkock. Main Street fronts onto the R407 connecting Kilkock with Naas – it is primarily in commercial use with some residential development.

The appeal building forms part of a two-storey terrace with a bank on its northern side and a Chinese Take-Away and Pizza Diner to the south. There are shops on the opposite side of the road. The ground floor area is stated to be 176 square metres and is currently vacant.

The proposed development involves the introduction of a betting shop at ground floor level incorporating a staff kitchen/toilet area and a public toilet to the rear. The majority of the space is dedicated to a customer area with chairs/tables, TV monitors, newspaper information and some machines. A new shop front and signage is proposed as well as four satellite dishes and condenser units at 1<sup>st</sup> floor level to the rear courtyard area.

## **2.0 PLANNING AUTHORITY'S DECISION**

The planning authority refused permission as follows viz.

1. Having regard to the nature of the proposed development, which proposes the change of use of a ground floor retail unit to a betting office, to the population of the town, the scale of the existing town centre and to the number of existing betting shops already existing in Clane, it is considered that the development, if permitted, would contravene Policy R55 and Section 9.6.9 of the Kildare County Development Plan 2011-2017 which seeks to discourage an over concentration of non-retail and lower grade retail uses in core retail areas. To permit the proposed development would therefore lead to a diminution of the retail offer within Clane, with consequent negative impacts on the vitality and viability of the town centre, would set an undesirable precedent for further such uses in towns and villages within County Kildare and would therefore be contrary to the proper planning and sustainable development of the area.

### **3.0 PLANNING HISTORY**

Reg. Ref. 14/308 – Permission granted by the planning authority for change of use of existing retail unit/shop to use as a funeral home.

### **4.0 PLANNING AUTHORITY REPORTS**

A covering letter by Niall Phelan Architects states that the premises were previously occupied by Xtravision, but is now vacant. Permission has been granted for a funeral home, but this will not be undertaken.

The Transport Section have no objections.

Sanitary Services have no objections.

The Conservation Officer has no objection subject to a condition making reference to Kildare Shopfront Guidelines for design layout.

An Appropriate Assessment Screening Report states that AA is not required.

The Planning Report states that Main Street is a multi-use area, with a mix of retail, commercial and residential units. Various objections are summarised and the planning history outlined.

It continues that Betting Office/Turf Accountant is not listed in the Zoning Matrix.

While she acknowledges that the funeral home permission does create a certain precedent for change of use away from retail, this permission has not been implemented and until then, it remains a town centre retail use. Within town centres the likes of betting shops, take-aways, restaurants etc. are generally acceptable where there is not an over-provision of one or other type of use. The town already has 3 betting shops for a population of 6,702 (2011 Census) or approximately 1 per 2,234 population. 4 shops would be one per 1,675 population, which could be viewed as excessive.

Policy R55 seeks to discourage the introduction of non-retail and lower grade retail uses in retail areas in the interests of maintaining and sustaining the retail attraction of the county's centres. Therefore, a fourth betting shop represents an over concentration of such units which would be an undesirable precedent. Refusal is recommended.

The planning authority had no further comments to make in response to the appeal.

## **5.0 FIRST PARTY APPEAL**

O'Connor Whelan (Planning Consultants) do not accept that there would be a negative impact on the town centre. In fact this site previously had a betting shop which moved into Unit 3 of the shopping centre when it was completed (c.2000) albeit without planning permission. It then was granted retention permission under Ref. 00/1872 and became part of the Ladbrokes chain. Subsequently Ladbrokes moved to No. 2, Main Street.

They argue that this proposal is a replacement of the previous betting office use within the shopping centre bringing the overall total back to four premises. The other unit is now occupied by a hair salon so it has ended.

They quote the Retail Planning Guidelines 2012 regarding the need for strong competition stating that this refusal precludes competition.

They consider it inappropriate to equate population size with number of units and argue that the planning authority were swayed by the number of objections lodged. In their view the retail catchment of Clane is nearly 24,000 people so this would translate as one unit per 6,000 if permission were to be granted. In the development plan Clane is designated as a 'Sub County Town Centre'.

They undertook a land use survey which revealed that there were 67 commercial units at ground floor level plus community uses and some 1<sup>st</sup> floor commercial units.

An additional betting office would equate to 1.5% of the commercial ground floor units. 4 betting shops would represent 5.9% of these units – this is not over concentration.

They consider a betting office to be a quasi-retail use which would complement the shopping offer in the town centre. It represents a better option than a vacant unit and would enhance the attractiveness of Clane Main Street in line with development plan policies R20 and R22.

They state that Precedent or perceived precedent is not a material planning consideration – each application must be considered on its own merit.

## **6.0 OBSERVER**

In this case ten separate submissions have been received including from local representatives. They all support the planning authority's decision.

Their objections can be summarised as follows viz.

- The proposed development would involve an over concentration of betting shops within a relatively small town.
- The catchment area set out by appellants is strongly disputed. This extended area already contains many betting offices and in any event nearby towns such as Maynooth, Naas and Celbridge would form better linkages with much of this area.
- It is stated that the proposed development is contrary to policies/objectives set out in both the County Development Plan and the Local Area Plan. If permitted, it would affect the vitality of the town centre.
- The site is within a key location on the Main Street beside a bank which should be in use for retail.
- It is considered that it would have negative social impacts.
- The proposal would be detrimental to the character of the area.
- It is argued that there is cross community objection to this proposal and that it represents an undesirable precedent.

### **Kildare Development Plan (2011-2017)**

In the County Plan Clane is designated as a Tier 1 Level 3 Sub County Town Centre. It states that these towns play an important strategic role in the shopping patterns of their generally extensive hinterlands.

Policy R20 seeks to expand the retail offer and town centre functions of Clane.

Policy R22 seeks to progress the redevelopment/regeneration of town centre sites.

Section 9.6.9 refers to Non-Retail Uses in Core Retail Areas and Other Main Streets. This acknowledges a significant improvement in retail offer and attraction, but refers to the negative impacts of non-retail and lower grade retail uses in core retail areas. These include bookmakers, amusement/gaming arcades, fast food outlets etc. In order to maintain the integrity, critical mass of quality retail activity, viability and vitality of core retail areas and other main streets, the Council will seek to discourage an over concentration of the aforementioned uses in prime retail areas.

Policy R54 states that the Council will refuse applications for amusement/gaming arcades as they are considered to be an undesirable use.

Policy R55 seeks to discourage the introduction of non-retail and lower grade retail uses in retail areas in the interests of sustaining the retail attraction of the county's centres.

### **Clane Local Area Plan 2009**

In this plan the appeal site is located within a Town Centre zoning.

The zoning matrix does not include betting shops.

Section 8 deals with Town Centre development of which Objective TC2 states 'To favourably consider development proposals to upgrade and expand the existing retail outlets in the town centre especially where such outlets are underused or vacant.

Section 7.1 states that much of the recent development in the town centre of Clane has taken place along the Main Street. The Council will particularly promote the revitalisation and consolidation of central town centre sites in Clane. The Council recognises the importance of maintaining a strong retail base in the town centre and will direct appropriate retail, commercial and other uses to the town centre. The Council recognises the need to develop a stronger service sector which will strengthen Clane as a growth centre.

## **7.0 ASSESSMENT**

Kildare is widely recognised as a major equine centre in which The Curragh Racecourse, Punchestown and the National Stud are all located. This is acknowledged in Section 10.4.2 of the Kildare County Development Plan. Although it has expanded rapidly in recent times Clane would have a strong connection with the bloodstock industry. It is important to recognise this background and to realize that bookmakers are not just a medium for betting, but also act as a meeting place and provide coverage of race meetings and sports events of major interest to the public at large.

Having said that Clane is a relatively small town of c.7,000 persons and already has the benefit of three bookmaking shops, so relatively speaking there is competition in place. The appellant's reference to a large catchment area is also considered to be quite spurious. As pointed out by observers this area already contains several bookmakers and many areas would have a natural affinity with such centres as Maynooth, Naas and Celbridge rather than Clane.

Both the development plan and the Local Area Plan have highlighted the importance of providing retail development within the central area. In relation to Clane this is focused on Main Street which is subject to heavy traffic volume as it links the M4 and M7 Motorways and connects Kilcock, Naas and Celbridge. The policies of the Council reflect government policy as set out in the Retail Planning Guidelines of 2012 – these recommend a plan led approach with a strong emphasis on fostering retail development within town centres in order to enhance transport choice, promote vitality and streetscape character.

Clearly town centres of their nature cater for a mixture of land uses and in addition to retail office/commercial, residential and other uses are all quite acceptable. Nevertheless, the planning authority have referred to the negative effects of non-retail and lower grade retail uses and the need to avoid an over concentration of such uses. In this category bookmakers are specifically mentioned along with take-aways, amusement arcades etc. In my view this is a reasonable approach, especially in relation to smaller urban areas.

### **Appropriate Assessment**

Having regard to the nature of the proposed development involving a change of use of a serviced urban site I would endorse the view of the

planning authority that Appropriate Assessment is not required as no significant impacts are likely in respect of Natura 2000 sites.

## **8.0 CONCLUSION AND RECOMMENDATION**

Having regard to all the circumstances outlined above I would sustain the view of the planning authority that the proposed development would represent a needless over concentration of this use within a relatively small town which would be contrary to development plan policies and to the proper planning and sustainable development of the area. As such it is recommended that permission should be refused as follows.

### **REASONS AND CONSIDERATIONS**

Having regard to the nature of the proposed development involving a change of use from retail to a betting office, to the scale of the existing town centre and the existing number of betting shops already in operation in Clane, it is considered that the proposed development, if permitted, would contravene Section 9.6.9 of the Kildare County Development Plan 2011-2017 and in particular Policy R55, which seeks to discourage an over concentration of non-retail and lower grade retail uses in core retail areas. Accordingly, it is considered that the proposed development would have a negative impact on the vitality and viability of the town centre, would set an undesirable precedent and would be contrary to the proper planning and sustainable development of the area.

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**Robert Ryan,  
Senior Planning Inspector.**

**31<sup>st</sup> March, 2015.**

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