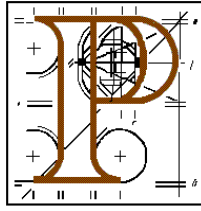


An Bord Pleanála



Inspector's Report

PL14.245509

DEVELOPMENT:

Permission for a change of use of the ground floor from shop to restaurant/café and all necessary associated works, at Unit 1A, Grafton Court, Longford, County Longford.

PLANNING APPLICATION

Planning Authority:

Longford County Council

Planning Authority Reg. No.:

15/104

Applicants:

Dermot and Kevin Smith

Application Type:

Permission

Planning Authority Decision:

GRANT PERMISSION subject to 7 conditions

APPEAL

Appellant:

Derek Fitzgerald

Type of Appeal:

THIRD PARTY

Observer:

None

DATE OF SITE INSPECTION:

4th December 2015

INSPECTOR:

Dermot Kelly

1. SITE LOCATION

The subject site is located at Unit 1A, Grafton Court in Longford Town, County Longford, as indicated on **APPENDIX A - LOCATION MAP**.

2. SITE DESCRIPTION

- 2.1** The subject site lands at Unit 1A, Grafton Court, Longford are approximately 79.4 square metres in area and are presently vacant and comprise the ground floor of a visually prominent three storey curved corner building fronting onto the extensive Car Park area in Longford Shopping Centre. There are a number of vacant retail units in the vicinity and also a number of café/restaurants including the adjacent setback Courtyard Café operated by the Third Party Appellant.
- 2.2** The attached Photographs in **APPENDIX B – PHOTOGRAPHS** (including Key Plan which indicates the approximate Photograph locations) illustrate the nature of the subject site and its context.

3. PROPOSED DEVELOPMENT

Planning Application

The proposed development comprises as specified in the Public Notices: 'Permission for a change of use of the ground floor from shop to restaurant/café and all necessary associated works', at Unit 1A, Grafton Court, Longford.

4. NOTIFICATION OF DECISION OF PLANNING AUTHORITY - Submissions and Relevant Reports

4.1 Third Party Appellant's Submission on Planning Application

The Submission received is noted and included stating that there were two vacant restaurant/café premises in the vicinity and also that 'The subject site is surrounded by existing similar developments, i.e. The Courtyard Café 15 metres away, Jacobites 50 metres away, and two restaurants in Longford Shopping Centre 30 metres away. The proposed change of use would result in a proliferation of eateries at this location and seriously put at risk the viability of existing

establishments in a sector already suffering a 40 to 60 per cent decrease in revenue.'

4.2 Third Party Submission on Planning Application

The Submission received is noted and included similar-type concerns as set out in the above Submission.

4.3 Planning Report for Planning Authority

This report, dated 25th August 2015 included documenting the Planning History of the subject site and the Third Party Submissions (2).

Under 'Planning Consideration' was stated as follows:

'The applicants propose to change the use of a vacant unit from shop to café/restaurant. The unit was used for a number of years as an office space. However the tenants vacated the property a number of years ago and a number of retail operators have occupied the space in the interim but none of them remained for any length of time. The proposed unit is considered to be a high profile location, as it represents the gateway between Grafton Court and the Longford Shopping Centre. Its glazed frontage onto the car park at this location further enhances its profile. A vacant unit at this location does not present a positive image of the area in general.

Permission was previously granted on the site for commercial uses and also for office units. Under the original permission on the site the applicant was required to provide car parking. Therefore, it is considered that this has been dealt with and does not form part of the current application. Similarly development contributions have already been paid in respect of this site and therefore it is not considered appropriate to charge them in this instance.'

Permission was recommended subject to the Conditions as stated in the notification of decision of the Planning Authority.

4.4 Notification of Decision of Planning Authority

The Planning Authority, Longford County Council issued a notification of decision to **GRANT PERMISSION** for the proposed development subject to 7 Conditions.

5. APPEAL GROUNDS

Third Party Appeal

- The Third Party Appeal Grounds included that the Appellant was the owner/operator of the Courtyard Café for 11 years and now employing 18 staff - which Café is adjacent to the appeal premises.
- Provisions in the Longford County Development Plan and Longford Town Development Plan were documented and it was submitted:
‘Having regard to the design of the unit and its location it would seem that the most appropriate use for same would be the original permitted retail use. The unit would not lend itself to commercial or office use due to the layout and open glazed front which may be a contributing factor in the vacancy of the unit.
Having regard to the above policies in respect of retail and maintaining the strong retail role of Longford, the change of use back to the original permitted retail use would seem the most preferable option and an upgrade of the façade of the building would contribute to the positive regeneration of the area.
The decision of the Planning Authority to grant planning permission for the proposed development which would undermine the viability of our client’s business, could be regarded as being contrary to the above core aims of promoting and enhancing the role of Longford town and ensuring the vitality and viability of the town.’
- Concerns relating to noise, odour and visual impact further to the proposed development were stated. It was also noted that there were no details of hours of operation or litter and waste management proposals or in regard to public health issues.
- ‘The proposed development would have a detrimental impact on the vitality and viability of our client’s established business and could potentially result in its closure and give rise to a loss of 18 jobs’, and also
The proposed development which is significantly lacking in details in relation to public health matters, signage, advertising, hours of operation would set an undesirable precedent for permitting other applications which would be contrary to the proper planning and development of the area.’

6. APPEAL RESPONSES

6.1 Applicants' Appeal Response

This Appeal Response received 16th October 2015 included stating:
'The absence of appeal by none of the other café/restaurants trading nearby highlights the individuality of the objection.

Also, it is anticipated that the proposed development will offer the consumer more choice and therefore increase competition between café/restaurants in the locality, both of which are seen as positives for the consumer and general public', and also

'It could be interpreted that arguments when referring to the Longford County Development Plan 2015 concentrate more on the justification as to why Unit 1A, Grafton Court should be retail use, as opposed to presenting arguments as to why it should not be café/restaurant use.'

'Notably, it appears many of the takeaway planning considerations the appellants seeks to challenge the proposed development on were not applied to his own Change of Use to Café/Restaurant planning application (Ref: 04/700055), for example 'point vi' – When referring to the 'proximity to residential development... detrimental to residential amenity of the area' where Mr. Fitzgerald's business operates directly below multiple residential accommodation. This contrasts with the proposed where commercial/office exist on the floors above, and where no residential occupation of the entire terrace in the landlords ownership has ever occurred', and also

'The proposed development seeks to encourage and promote a café/restaurant business, at a perfect location that has previously failed in its retail use, into a successful and sustainable enterprise, while simultaneously generating immediate employment and encouraging commercial growth and opportunism. Its permission will actively improve the fabric of the streetscape, increase footfall and unlock the premises ideal potential.'

6.2 Appeal Observation

No Appeal Observation was received.

6.3 Appellant's Response to Applicants' Appeal Response

This Response received 13th November 2015 is noted including the stated provisions in the 2015-2021 Longford County Development Plan in regard to 'Take-away premises'.

'The applicant makes reference to our client's business and attempts to review planning considerations in respect of same, however these are not relevant as An Bord Pleanála in the determination of this appeal can only concern itself with the subject planning application', and 'Detrimental impact on the viability and vitality of The Courtyard Café. Our client's concerns regarding the impact on his established business are valid and are genuine having regard to the potential loss of employment.

The applicants' reference to two other vacant permitted cafes/restaurants in town at present and confirmation that they have had a high turnover and short vacancies would suggest that there is little demand for an additional café/restaurant in the area as there is sufficient supply of same.'

6.4 Planning Authority Appeal Response

This Appeal Response received 6th November 2015 made no further comments.

7. PLANNING HISTORY

The Planning Report for the Planning Authority documented the Planning History of the subject site/area including PL01/700024: 'Permission was granted to Dermot and Kevin Smith for the change of use of unit No. 1 which is the subject of the current application from commercial to office and/or commercial.'

8. DEVELOPMENT PLANS

8.1 The provisions of the *2009-2015 Longford Town Development Plan* which continue in force have been considered, and in particular the following provisions which are attached in **Appendix C – Development Plan:-**

- The 'Commercial/Residential' land use zoning objective for the subject site at Unit 1A, Grafton Court, Longford.
- Section 1.3.8 – 'Retail' and Section 4.3.4 – 'Core Retail Area'.
- The provisions relating to 'Take-Away Food Premises' in the *2015-2021 Longford County Development Plan* are also noted: 'All applications for take away premises need planning permission whether it involves a change of use of an existing building or an entirely new building.....'

9. PLANNING ASSESSMENT – Issues and Evaluation

Having regard to the above and having inspected the site and having reviewed all documents on file, the following is my assessment of this case where the major planning issues for consideration are as follows:

Proposed Development and Third Party Appeal Grounds

- The subject site lands at Unit 1A, Grafton Court, Longford are approximately 79.4 square metres in area and are presently vacant and comprise the ground floor of a visually prominent three storey curved corner building fronting onto the extensive Car Park area in Longford Shopping Centre. There are a number of vacant retail units in the vicinity and also a number of café/restaurants including the adjacent setback Courtyard Café operated by the Third Party Appellant, see Photograph 3 in Appendix B.
- The proposed development comprises as specified in the Public Notices: 'Permission for a change of use of the ground floor from shop to restaurant/café and all necessary associated works', at Unit 1A, Grafton Court, Longford.
- I note the Planning Report for the Planning Authority included: 'The proposed unit is considered to be a high profile location, as it represents the gateway between Grafton Court and the Longford Shopping Centre. Its glazed frontage onto the car park at this location further enhances its profile. A vacant unit at this location does not present a positive image of the area in general'. The Planning Authority, Longford County Council issued a notification of decision to **GRANT PERMISSION** for the proposed development subject to 7 Conditions.
- The Third Party Appeal Grounds included that the Appellant was the owner/operator of the Courtyard Café for 11 years and now employing 18 staff which Café is adjacent to the appeal premises. 'The decision of the Planning Authority to grant planning permission for the proposed development which would undermine the viability of our client's 'Core Retail Area' business, could be regarded as being contrary to the above core aims of promoting and enhancing the role of Longford town and ensuring the vitality and viability of the town.'

- The Applicant's Appeal Response included stating as follows:
'It could be interpreted that arguments when referring to the Longford County Development Plan 2015 concentrate more on the justification as to why Unit 1A, Grafton Court should be retail use, as opposed to presenting arguments as to why it should not be café/restaurant use.'
- The Appeal Response also submitted that the proposed restaurant/café development which was located beneath commercial/office uses on the upper floors and not apartments, would therefore be 'at a perfect location that has previously failed in its retail use'.
- The Appellant's Response to this Appeal Response stated that 'concerns regarding the impact on his established business are valid and are genuine having regard to the potential loss of employment' and that 'there is little demand for an additional café/restaurant in the area as there is sufficient supply of same.'
- Further to site inspection of the vacant ground floor appeal premises on a prominent corner position on Grafton Court – which is located off Main Street in the town centre of Longford – and which fronts onto the extensive Car Park area in Longford Shopping Centre, see Photographs in Appendix B, and where the two upper floors above the appeal premises building are in office/commercial use – I would raise no objection on planning grounds to the proposed Restaurant/Café development in the vacant premises at Unit 1A, Grafton Court which is zoned 'Commercial/Residential' under the 2009-2015 Longford Town Development Plan which remains in force.
- I note the Third Party Appeal Grounds submissions in regard to the potential for the proposed development to undermine the viability of the Third Party Appellant's adjacent Courtyard Café business, see Photograph 3 in Appendix B.
- I do not consider that such considerations are relevant to the determination of this appeal, and as stated in the Applicant's Appeal Response the proposed development would 'increase competition between cafes/restaurants in the locality' to the benefit of the general public, and I also concur would not 'undermine the vitality and viability of the town centre of Longford'.

- Indeed also in my opinion it is possible that a new Restaurant/Café as proposed in this location adjacent to the setback existing Courtyard Café, see Photograph 3 in Appendix B, could result in ‘commercial synergy’ between the two Restaurant/Café premises to the commercial benefit of both premises though this is not a planning consideration.
- There is reference in the Third Party Appeal Grounds to the section entitled ‘Take-Away Food Premises’ on page 142/143 in the 2015-2021 Longford County Development Plan and the provisions therein including relating to noise pollution, litter, odour, disturbance, car parking, traffic circulation and safety, opening times, proximity to residential development and façade design.
- In this regard I note in particular Section (b)(v) – ‘Applications for such developments may be more favourably considered in mixed use locations such as town centres’ – which is where the appeal premises at Unit 1A, Grafton Court is located.
- Furthermore the proposed development is a Restaurant/Café use as specified and not a Take-Away Food Premises and is not located in proximity to residential development. I recommend that permission be granted for the proposed development subject to Conditions as set out hereunder.
- In conclusion it is noted that as stated in the Planning Report for the Planning Authority that ‘development contributions have already been paid in respect of this site and therefore it is not considered appropriate to charge them in this instance’.
- It is considered that the proposed development of a Restaurant/Café in the existing vacant premises at Unit 1A Grafton Court would increase the vitality and viability of the Longford Town Centre at this location to the benefit of commercial developments in the area.

Appropriate Assessment

Having regard to the location of the subject site and to the nature and scale of the proposed development, I consider that no Appropriate Assessment issues arise in this case. It is not considered that the proposed development either individually or in combination with other plans or projects, would be likely to have a significant effect on a European Site.

10. CONCLUSIONS AND RECOMMENDATION

In conclusion, further to the above assessment of matters pertaining to this appeal, including consideration of the submissions of each party to the appeal, and including the site inspection, I consider that the proposed development would be in accordance with the proper planning and sustainable development of the area having regard to the relevant provisions of the current 2009-2015 Longford Town Development Plan which are considered reasonable, and I recommend that permission be granted for the proposed development for the stated Reasons and Considerations in the First Schedule and subject to the Conditions as stated in the Second Schedule below.

DECISION

GRANT permission for the proposed development in accordance with the said plans and particulars based on the Reasons and Considerations hereunder and subject to the Conditions set out below.

REASONS AND CONSIDERATIONS

Having regard to the 'Commercial/Residential' land use zoning objective for the area in the current 2009-2015 Longford Town Development Plan and the pattern of development in this area in Longford Town Centre, and having regard in particular to the prominent location in the town centre of this vacant ground floor commercial premises beneath commercial office uses in the upper floors of the building, it is considered that, subject to compliance with the Conditions in the Second Schedule, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be undertaken and completed in accordance with the plans and particulars lodged with the application 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 undertaken and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The 'Selected Signage' as indicated on the submitted Elevation Drawings shall be in raised individual metal or timber lettering, details of which shall be agreed with the planning authority prior to installation.

Reason: In the interest of visual amenity.

3. Security roller shutters, if installed, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the 'open lattice' type and shall not be used for any form of advertising.

Reason: In the interest of visual amenity.

DERMOT KELLY
SENIOR PLANNING INSPECTOR

4th January, 2016

ymc/sg

APPENDIX A - LOCATION MAP
APPENDIX B - PHOTOGRAPHS (incl. KEY PLAN)
APPENDIX C - DEVELOPMENT PLANS