

An Bord Pleanála



Inspector's Report

Development: Change of use of public bar to retail unit.

Location: Gortnamucklagh, Main Street, Glenties, Co. Donegal.

Planning Application

Planning Authority: Donegal County Council
Planning Authority Reg. Ref.: 15/51590
Applicant: KLH Trading Limited
Type of Application: Permission
Planning Authority Decision: Grant Permission

Planning Appeal

Appellant: Darren Melly

Type of Appeals: 3rd v Grant
Date of Site Inspection: 10th May 2016
Inspector: Dolores McCague

1 SITE LOCATION AND DESCRIPTION

- 1.1 The appeal site is situated at Main Street, Glenties, Co. Donegal. The site is located in the middle of the town, north of the Stracashel River, where there are commercial properties along both sides of the street. The site comprises the ground floor of a building which is two storeys at the front and single storey at the rear. The building, formerly a public house and an adjoining nightclub (part of) is unoccupied at the present time.
- 1.2 The site area is given as 0.0682ha.

2 PROPOSED DEVELOPMENT

- 2.1 The proposed development comprises change of use of existing public house and part of adjoining nightclub to retail unit including an off-licence.
- 2.2 The floor area is given as 682m².

3 PLANNING AUTHORITY DECISION

- 3.1 The planning application was lodged on the 4th December 2015.

Technical Reports

- 3.2 Transport Infrastructure Ireland – 14/12/2015 – will rely on the planning authority abiding by official policy.
- 3.3 Unsolicited further information – 5/1/2016 – responding to observations: drawings showing in detail proposed layout and drawing showing existing layout.
- 3.4 Planning Report 20/1/16 – further information recommended.

3.5 **Further information** request 21/1/2016 – on 6 points: history of use of the premises; drawings of existing layout indicating areas that are/were publically accessible; revised floor plan showing omission of seating area/ café element; state clearly whether or not the food counter would be for pre-prepared food for consumption off the premises, whether or not the food would be hot food and what proportion of overall potential retail turnover is expected to be generated from the sale of pre-prepared food; state the use of the first floor and whether any change of use is proposed; and state how waste collection from the proposed unit would operate.

3.6 **Response to Further information** request received - 04/2/2016:

History detailed.

Drawing showing areas publicly accessible.

Revised drawing showing omission of seating area / café element.

Food counter is for pre-prepared cold food for consumption off the premises.

First floor area is used for office and storage associated with the nightclub. No change of use is proposed.

Waste collection will be from the rear, using the side access currently used for the collection and delivery of goods for the nightclub.

Further Technical Reports

3.7 Planning Report 23/3/16:

Parking - the floor area had a demand of 28 car parking spaces plus a set down area for a minimum of 3 taxis The publicly accessible floor space (556m²) of the proposed retail use has been stated to be 328 m², this would generate a demand for 17 car parking spaces plus a delivery bay. A credit for greater than the required parking already exists on site.

Pre-prepared food amounts to 10% of the main retail use.

Recommending a grant of permission.

- 3.8 The planning authority – 25/1/2016 - decided to grant permission subject to 5 conditions including condition no. 3 which clarified that no internal floorspace of mezzanine level should be provided.
- 3.9 The decision was in accordance with the planning recommendation.

4 PLANNING HISTORY

00/2885 – renovation and improvements to front of existing building – granted.

236614 (10/30043) Alterations to the front elevation, pitched roof and all associated site works; withdrawn.

5 GROUNDS OF APPEAL

- 5.1 The third party appeal against the grant of permission has been submitted by Harley Newman, Planning Consultants on behalf of Darren Melly.
- 5.2 It can be summarised as follows:

Retail/Appropriate Use:

There is no reference to the existing retail environment or how the new retail use would impact on the vitality or viability of the town centre. There are 4 no. convenience retail outlets in the town centre, including a large modern convenience shop along the Main St., in close proximity to the subject site, with extensive dedicated parking to the rear. There is no explanation of how the proposal would comply with the Retail Planning Guidelines 2012 or the County Donegal Development Plan 2012 – 2018, in respect of retail policy.

Inadequate Parking:

The proposed shop would likely have a greater parking requirement than the public house. There is no dedicated parking. It is queried whether a previous situation in which an existing public house has historically operated without any car parking would justify a future situation in which a new shop can similarly trade without any parking.

The parking requirement would be in excess of 20 spaces: 16 based on floor area and 6 for employees. Pub parking would be used in the evenings; retail demand is all day. The proposed shop must provide dedicated parking. Plan policy T-P-6 is referred to. The proposal is in contravention with that policy. The 'credit' for parking, referred to in the planning assessment, is queried. There is no reference to such a credit system in the County Development Plan. Such a transfer should carefully consider the nature and type of parking associated with the former use in comparison with that of the new use. The existing use would not generate the same volume and pattern of customer traffic as a convenience retail use. The credit could not be transferred, and the new shop contravenes Plan policy T-P-6. A public car park to serve the needs of the town is required; as is available in other towns. The proposed development is premature pending the provision of a public car park.

Deliveries: A single large or main daily delivery would occur between 7am and 8am and smaller deliveries would occur throughout the day. It is proposed that large HGV's would park along the Main St and disrupt both motor vehicles and pedestrians. This is not adequate. Large pallets of goods would have to be front loaded through the confined front doorway along the narrow pathway.

6 RESPONSES

6.1 Planning Authority Response.

6.2 The Planning Authority has responded to the grounds of appeal.

The response includes:

The development consists of a retail development in the town centre of Glenties as defined within Appendix A of the County Development Plan 2010-2018, as varied. The nature of the proposed retail use is complementary to the existing range of retail activity in the Tier 3 town and reinforces its role as a local retail centre. The development does not conflict with the CDP or Retail Guidelines. The nature and scale of the proposal presents no negative car-parking issues and the transient nature of on-street parking as it exists can adequately cater for the proposal. Main Street, Glenties can cater for delivery traffic without added or undue traffic disruption. The former use would have necessitated such delivery traffic and no additional traffic issues are likely.

7 POLICY CONTEXT

- 7.1 **The County Donegal Development Plan 2012 – 2018** is the operative plan.
- 7.2 Relevant provisions include: in relation to retail development the aim stated is: to facilitate a diverse range of retail activities at appropriate locations in urban areas, thereby ensuring vitality and viability and improving competition within our town centres. In accordance with the Core Strategy and the Settlement Frameworks of the Plan, the Retail Strategy directs retail land uses within identified town centres while promoting the highest possible standards in the design and layout of retail outlets.
- 7.3 In line with the Core Strategy and the Settlement Framework of the Plan, focusing retail land uses within the established town centres is central to the strategy while promoting the highest quality standards possible in the design and layout of retail developments.
- 7.4 The identified town centres have sufficient opportunities to accommodate additional retail floorspace in terms of utilising infill and redevelopment opportunities. Cognisance has to be paid to the extent of vacancy in towns and villages where the opportunity exists to consolidate the existing retail offering in the settlements

and consequently enhance the vitality and physical appearance of these centres.

Relevant objectives and policies:

RS-O-6: (Objective) - To consolidate retail developments within town centres and thereafter expand in an incremental fashion.

RS-P-3: (Policy) - It is a policy of the Council to promote and encourage the provision of local scale development at appropriate locations in Tier 3 settlements as identified in the Core Strategy.

RS-P-11 - It is a policy of the Council that retail developments located within An Ghaeltacht shall incorporate suitable signage in the Irish language of an area, size and prominence that is at least equal to the area, size and prominence of signs provided in other languages. Signs in the Irish language only will be encouraged.

Transportation Policies

T-P-6 It is a policy of the Council to require development proposals to provide adequate provision for car parking and associated servicing arrangements. The precise amount of car parking will be determined according to the specific characteristics of the development and its location, having regard to the standards set out in Chapter 10 Development and Technical Standards.

7.5 **Retail Planning Guidelines 2012**

7.6 Relevant provisions include:

Sequential development approach: this national policy objective is to promote greater vitality in city and town centres by promoting a sequential approach to retail development. Sequential development means that the overall preferred location for new retail development is within city and town centres.

Competitiveness in the Retail Sector – this national policy objective: to ensure that the planning system continues to play its part in ensuring an effective range of choice for the consumer, thereby promoting a competitive market place. Strong competition is essential to reduce retail costs and ensure that savings are passed on to retail customers through lower prices. Competition also promotes innovation and productivity. The planning system should not be used to inhibit competition, preserve existing commercial interests or prevent innovation. In interpreting and implementing these Guidelines, planning authorities and An Bord Pleanála should avoid taking actions which would adversely affect competition in the retail market. In particular, when the issue of trade diversion is being considered in the assessment of a proposed retail development, planning authorities and An Bord Pleanála should assess the likelihood of any adverse impacts on the vitality and viability of the city or town centre as a whole, and not on existing traders.

8 ASSESSMENT

8.1 The main issues which arise in relation to this development are retail impact, car parking and traffic, and appropriate assessment and the following assessment is addressed under these headings.

8.2 Retail Impact

8.3 The grounds of appeal refers to this issue as not having been addressed in the application. The planning authority states that the nature of the proposed retail use is complementary to the existing range of retail activity in the Tier 3 town and reinforces its role as a local retail centre. The planning authority states that the development does not conflict with the CDP or Retail Guidelines.

8.4 The settlement framework map for Glenties identifies this area as town centre. The County Development Plan states a presumption in favour of central or edge of centre locations for new developments.

8.5 The Retail Planning Guidelines states that *'when the issue of trade diversion is being considered in the assessment of a proposed*

retail development, planning authorities and An Bord Pleanála should assess the likelihood of any adverse impacts on the vitality and viability of the city or town centre as a whole, and not on existing traders'.

8.6 The proposed development is 682m² gross floor area. It does not breach any limitations on scale. It is located within the existing retail core of Glenties and accordingly would not detract from the vitality and viability of the town centre. The proposed development is in accordance with the retail provisions of the County Development Plan and the guidance in the Retail Planning Guidelines.

8.7 **Car Parking and Traffic**

8.8 The grounds states that the lack of dedicated parking is a serious shortcoming. It refers to policy T-P-6 of the County Development Plan, which requires developers to make adequate provision for car parking and associated servicing arrangements, and states that the proposal is in contravention with that policy; and that the parking requirement would be in excess of 20 spaces: 16 based on floor area and 6 for employees. It points out that the pub parking would be used in the evenings; whereas retail demand is all day. It questions the use of a 'credit' for the existing car parking demand based on the existing use.

8.9 The planning authority, in assessing the application sought further information with a view to calculating the existing parking demand, based on existing floor area accessible to the public, and compared this with the future demand, based on proposed floor area accessible to the public. The calculation revealed that the existing demand exceeds that of the proposed development. I note that the likelihood is that the greatest use of the existing premises would be made in the evening/night. This is also when car parking demand for the remainder of the premises, the nightclub, would also be at its highest. The change of use is therefore likely to be beneficial in terms of the parking demand in the town. The opening hours of a public house runs from late morning to late night and there is overlap between the hours of opening of the existing use and proposed use.

- 8.10 Allowing 'credit' for an existing use, in terms of car-parking demand is fairly standard practice and I can see no reason why it should not be used in this case. In my opinion the unavailability of on-site car parking should not be a reason to refuse permission.
- 8.11 The third party states that deliveries to the premises would be difficult; that a single large or main daily delivery would occur between 7am and 8am and smaller deliveries would occur throughout the day; and that it is proposed that large HGV's would park along the Main St and disrupt both motor vehicles and pedestrians, with large pallets of goods being loaded through the confined front doorway along the narrow pathway.
- 8.12 The planning authority response is that Main Street Glenties can cater for delivery traffic without added or undue traffic disruption and that the former use would have necessitated such delivery traffic and that no additional traffic issues are likely.
- 8.13 A lane which accesses the rear of the site is narrow, the width of a single vehicle, and has poor sightlines. Servicing is largely to be carried out from the front of the building with delivery vehicles parking along the Main St. The established use has a delivery requirement and deliveries are not a new phenomenon. There is no evidence on the file that deliveries to the existing premises have been a source of traffic congestion or traffic hazard. The aim of the retail provisions in the Development Plan is to facilitate a diverse range of retail activities at appropriate locations in urban areas, ensuring their vitality and viability; and the Retail Strategy directs retail uses to town centres. This area, at the centre of Glenties, has been identified as the retail core. Unless a specific traffic hazard or a congestion issue is identified, which is not the case here, this area should be regarded as being suitable for retail development such as that proposed. Parking and deliveries should not be a reason to refuse permission.
- 8.14 **Appropriate Assessment**
- 8.15 The proposed development is the change of use of an existing commercial building to another commercial use within the town centre of Glenties, where the development is served by public water supply, wastewater and surface water services. The nearest

Natura site is the West of Ardara Mass Road SAC (000197) which is close by, along the Stracashel River.

- 8.16 In accordance with obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a Natura 2000 site; there is a requirement on the Board, as the competent authority, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision on the proposed development. The process is known as appropriate assessment. In this regard a guidance document 'Appropriate Assessment of Plans and Projects in Ireland' was published by the DoEH&LG on the 10 December 2009.
- 8.17 Having regard to the nature and scale of the proposed development and proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect, individually or in combination with other plans or projects, on a European site.

9 RECOMMENDATION

In accordance with the foregoing assessment, I recommend that planning permission be granted for the following reasons and considerations, and subject to the following conditions.

REASONS AND CONSIDERATIONS

It is considered that subject to the following conditions, the development as proposed, would contribute to the vitality and viability of the town of Glenties by supporting the mixed use function of the town centre, would not cause traffic congestion or traffic hazard, would be in line with the provisions of the County Donegal County Development Plan 2012-2018 and would accordingly be in accordance with the proper planning and sustainable development of the area.

Conditions:

1 The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 5th day of January 2016 and the further plans and particulars submitted on the 4th day of February 2016, 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.

Reason: In the interest of clarity.

2 The change of use hereby permitted shall be to a retail unit and off-licence only.

Reason: In the interest of clarity.

3 No additional internal floorspace or mezzanine level shall be provided within the proposed unit, and no sub-division or amalgamation of the unit shall occur without a prior grant of planning permission.

Reason: In the interest of clarity.

4 Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

5 Any damage to the public road, including footpath, occurring during construction, shall be made good to the satisfaction of the planning authority. In this regard, a photographic survey of the

public footpath along the site frontage, shall be submitted to the planning authority prior to the commencement of development.

Reason: To protect public infrastructure.

6 Prior to the commencement of the development, the developer shall submit, for the written agreement of the planning authority, proposals for a name sign and for any other signage intended to be erected on the front of the premises. Proposals shall include use of the Irish language at least on an equal basis in terms of the area, size and prominence of signs, provided in other languages; or the use of Irish only signs.

Reason: To protect the culture and language of this Gaeltacht area.

Dolores McCague
Inspectorate

Date

Appendix	1	Map and Photographs
Appendix	2	Extracts from the Development Plan 2011 -2017
Appendix	3	Site synopsis for West of Ardara Mass Road SAC 000197