



An
Bord
Pleanála

Inspector's Report PL15.246686

Development	Change of use from retail to bookmakers, amalgamation of part of ground floor into existing bookmakers use, internal reorganisation and enhancement of existing shop front at No. 86 Clanbrassil St. & 87 Clanbrassil St., Dundalk, Co. Louth
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	16/179
Applicant(s)	Boylesports Limited
Type of Application	Permission
Planning Authority Decision	Permission
Appellant(s)	1. Boylesports Limited
Observer(s)	None
Date of Site Inspection	30 th of August 2016
Inspector	Angela Brereton

1.0 **Site Location and Description**

- 1.1. The application site is located in Dundalk town centre, on the west side of Clanbrassil Street opposite the junction with Batchelor's Walk. The site comprises a three storey period building of significant importance within the streetscape of Clanbrassil St. Architectural Conservation Area. The proposal is in two separate units at ground floor. The ground floor of No.87 has been in use as a bookmaker since 2003 and the adjoining property at No.86 is currently vacant but was last in use as a fashion boutique. There is a solicitor's office above. The existing bookmaker property extends the entire length of the building at no.87 with direct access also available at the rear from Boyds carpark. There is signage advertising the use on the front and rear elevations of the premises.
- 1.2. A large paid carpark is located at the rear of the buildings accessed via The Long Walk and there are a number of laneways from this carpark to Clanbrassil Street. This includes the laneway by the side of Boylesports.
- 1.3. Clanbrassil St. is a main shopping street in the retail area of the town. There are a number of underused and vacant premises on this street.

2.0 **Proposed Development**

- 2.1. This consists of:
- 1) A Change of part (the rear) of the ground floor of Unit 1, 86 Clanbrassil Street from retail use to bookmakers;
 - 2) Amalgamation of part (the rear) of the ground floor of Unit 1, 86 Clanbrassil Street into the existing bookmakers use at No.87 Clanbrassil Street;
 - 3) Enhancement of the existing shop front serving Unit 1, 86 Clanbrassil Street and internal reorganisation of part (front) of the premises to facilitate continued retail use; and
 - 4) All associated site works.

The application form provides that the present use is as retail unit and the proposed use is as bookmakers and includes details of this.

This notes that the Applicant is not the owner and a letter has been submitted with the application from Edmund Mallon giving consent to Boylesports to apply for planning permission at his premises at No.87 Clanbrassil Street.

A Site Layout Plan, floor plans, sections and elevations have been submitted. The application site which includes nos. 86 and 87 is shown in red and the area for the proposed change of use from retail to bookmakers is shown hatched in blue. The site only encompasses the ground floor area of both premises.

A letter from HRA Planning has been submitted on behalf of the applicant providing a rationale for the application.

3.0 Planning Authority Decision

3.1. Decision

Louth County Council refused permission for the proposed development on the 12th of May 2016 for the following reason:

The application site is located within the town centre retail area of The Dundalk and Environs Development Plan where Policy TC2 therein aims to 'Resist the conversion of ground floor of retail premises to non retail uses in the town centre retail-zone'. The proposed part change of use of Unit No.1, 86 Clanbrassil Street to non-retail use is considered unacceptable given the premises location along the principle shopping street in Dundalk and contrary to Policy TC2 of the Dundalk and Environs Development Plan and the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

The report of the area planner can be summarised as follows:

The Planner had regard to the locational context of the site, planning history and policy and to the Internal Reports. They noted that this is a repeat application to that which was refused under PL.Ref.15/129, for reasons related to loss of retail use within the town core and the impact of the proposed development on the Clanbrassil St. ACA.

They are concerned about retail vacancy and non-retail uses on this street and consider that this proposal in effect would exacerbate the impact of this on the street being a retail area in the town core. They consider that the retail element being proposed is too small to circumvent the loss of retail to non-retail use within the town centre core. They note that the upper floors of the premises are not included in the application and are concerned about the enforceability of changes to the appearance of the premises. They recommended that the proposal be refused as being contrary to policy for the town centre retail area in the Dundalk and Environs Development Plan.

3.3. **Other Technical Reports**

Internal

Conservation Officer

They noted that the site is in the ACA and had regard to planning policy. They had concerns that the red line boundary does not extend to the upper floors and were concerned about the enforceability of the modifications to signage, paintwork etc. They do not object to the application and support changes to signage. They recommend a number of conditions including that the signage at the rear of the premises be removed.

Infrastructure Section

They have no objections to the proposed development.

External

Irish Water

They have no objections subject to conditions.

Third Party Observations

There are no third party submissions noted on file.

4.0 Planning History

4.1. The Planner's Report includes a detailed history of the planning history relate to Nos. 86 and 87 Clanbrassil Street. Section 2.2 of the First Party Appeal also has regard to the extensive planning history. The most recent relevant decision is as follows:

4.2. Reg.Ref.15/129 - Permission refused to Boylesports Ltd. by the Council for the change of use of ground floor premises at Unit 1, 86 Clanbrassil Street, from retail use to bookmakers premises and proposed extension of existing ground floor bookmakers premises at No.87 Clanbrassil Street into ground floor premises of Unit 1, 86 Clanbrassil Street, together with alterations to both existing fascias and associated site works. This refers to the subject premises and was refused for two no. reasons, summarised as follows:

- The proposed non-retail use would be unacceptable along the principle shopping street in Dundalk and contrary to Policy TC2 of the Dundalk and Environs Development Plan and the proper planning and sustainable development of the area.
- To permit the signage as proposed would materially contravene Policy CH10 of the Dundalk and Environs Development Plan, detract from the character of the ACA and be contrary to the proper planning and sustainable development of the area.

A copy of this decision is included in the History Appendix to this Report.

5.0 Policy Context

5.1 Louth County Development Plan 2015-2021

This Plan provides the strategic planning policies and objectives for the County. Section 2.16.4 notes that the Statutory Plan for Dundalk and the surrounding area is the Dundalk and Environs Development Plan 2009-2015 and Policy SS3 seeks: *To review the Dundalk and Environs Development Plan 2009 – 2015 and to prepare a Local Area Plan for Dundalk and Environs which will be consistent with the provisions of the County Plan.*

5.2 Dundalk and Environs Development Plan 2009 -2015 (as extended)

This Plan is still current. As shown on Map 4.2 the site is within the town centre area.

The zoning objective for the town centre retail area is to protect and enhance the viability and vitality of the town centre as the primary retail core area of the town.

Policy TC2 seeks: *To resist the conversion of ground floors of retail premises to non retail uses in the town centre retail zone. Any proposed development within the town centre retail zone shall include for a minimum of 20% residential in upper floors.*

Policy CH10 seeks: *To Protect designated Architectural Conservation Areas within the plan area and require that new development within such areas is sensitively designed so as not to detract from the character of the areas.*

Appendix 2 provides Urban Design Guidance. This includes Shop Front Design Guidelines and Signage e.g. *Many of the buildings and shopfronts in Clanbrassil St are traditional and therefore retention is highly desirable.*

Appendix 7 relates to Development Management Guidelines for ACA's. Clanbrassil St. is in ACA 4 and specific guidelines relate.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

HRA Planning has submitted a First Party Appeal on behalf of the Applicant. The grounds of appeal can be summarised as follows:

- The proposal is supported by a town centre retail land use zoning afforded to the site and accordingly must be deemed in accordance with the proper planning and sustainable development of the area.
- The development does not seek to change the retail frontage of the proposed development, the change of use only relates to the rear.

- There is a need to support vibrant smaller retail units in town centres with specific reference to other operating food business in units throughout the country.
- The development does not seek to introduce an additional bookmaker use or another non-retail unit into the street.
- It seeks to maintain the existing retail use fronting onto Clanbrassil Street and further seeks to ensure that the existing bookmakers can operate to current day standards and requirements.
- The site comprises a now vacant unit formerly in retail use, is located within a mix of retail uses and services and extensive vacant buildings dominating this area of Clanbrassil St. They refer to the survey of uses they conducted and an increase in the number of vacant units.
- They note the extensive history of planning applications on the site and consider that the two reasons for refusal given in the Council's previous decision (Reg.Ref.15/129 refers) have now been overcome. These include maintaining a viable retail frontage and providing hand painted signage.
- They provide details of the characteristics of the development in Section 3.0 and include photographs of some smaller retail units in other town centre areas. They contend that there is an identifiable need for smaller units with low overheads.
- They consider that the proposed revisions to the shop front signage will offer an opportunity to improve the visual appearance in the ACA and to remove unsympathetic signage.
- Section 4.0 provides a review of planning policy and has regard to the Retail Strategy. They note that there is no guiding or prohibitive policies in the CDP relating to the provision of bookmakers within towns and villages throughout Co. Louth.

- It is submitted that there are a number of core considerations in the determination of this application which will negate the minor loss of retail floorspace and details are given of these.
- The proposal will add to the mix of uses and to the vibrancy and viability of the town centre and lead to a viable use of a vacant premises.
- Policy TC2 does not seek to prevent such non-retail changes of use. Therefore, the proposal is not contrary to this Policy.
- The proposed signage to the existing shopfront and the treatment of signage to the new retail unit No.86 accords with policy in the CDP.
- They provide that the proposed use cannot be considered to be contrary to the overall provisions and tenor of the plan led approach set out in the statutory documents.

6.2. **Planning Authority Response**

The Council has regard to the First Party grounds of appeal and concur with their reason for refusal. They note that the majority of the unit would be in non-retail use. They consider that the level of retail vacancy is not as high in this location which is in the main part of the Clanbrassil St. thoroughfare as in other areas. They consider that this proposal is contrary to Policy TC2 which seeks to 'resist the conversion of retail premises to non-retail use in the town centre retail zone.'

7.0 **Assessment**

7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

- Principle of Development and Planning Policy
- Regard to Change of Use
- Design and Layout

- Regard to Retail issues
- Impact on the Character and Amenities of the area.
- Appropriate Assessment

7.2 Principle of Development and Planning Policy

The proposed development is located on the west side in the main retail thoroughfare in Dundalk Town Centre. The application site concerns the ground floor usage of adjoining properties nos.86 (vacant retail unit) and 87 (Bookmakers) Clanbrassil Street. It refers to the change of use of the ground floor of no.86 only and seeks to utilise this existing vacant retail unit with frontage onto Clanbrassil Street, through maintaining retail use (food sales) to the front of the premises and a change of use to a Bookmakers at the rear. Thus the proposal involves the subdivision of the existing retail unit. The First Party has emphasised that this will put a vacant unit back into use and they have also noted the extent of vacant premises in particularly the northern end of Clanbrassil St and have included a survey showing this.

It must be considered that as per the details submitted and outlined in the Design and Layout Section below that the floor area of the proposed reduced retail element is significantly less than that proposed to be amalgamated with the existing bookmakers premises at No.87 and will be seen as subordinate to this. The issue is whether such a subdivision is desirable especially taking into account the historic character of these three storey buildings in the streetscape in this town centre area within the ACA.

Map 4.2 of The Dundalk and Environs Development Plan 2009-2015 (as extended) shows that the site is located within the Town Centre Retail zoning area where the objective seeks: *To protect and enhance the vitality and viability of the town centre as the primary retail core of the town.* While there is reference to some mixture of uses within the town centre it is provided: *Within the defined TCR zone, proposed development that would involve a net loss of convenience or comparison shopping floor space at ground level will be resisted.* It is further provided: *Permitted uses at ground floor level should be predominantly retail but may also include financial and*

professional services, where the premises are frequently visited by the public and where an active window display is maintained at street level.

Note is made of the First Party Grounds of Appeal and regard is had to issues raised, in the Assessment below, including compliance with planning policy and design and layout taking into consideration the usage of a now vacant property. It needs to be ascertained as to whether this proposal would be in accordance with the proper planning and sustainable development of the area.

7.3 Change of Use and differences between that previously refused

Details have been submitted with the application from HRA Planning providing a rationale for the proposed change of use. This provides that the purpose of this application is to facilitate the expansion of an existing Bookmakers on Clanbrassil Street and does not seek to provide a new Bookmakers or usage on the street. They provide that this application is fundamentally different to that previously refused in Reg.Ref.15/129. Whereas that application sought to change the use of the entire unit, the proposed development seeks only a partial change of use to the rear of Unit no.1 Clanbrassil St, whilst retaining the front of the unit for retail use. Accordingly it is submitted that the proposed development seeks to protect the town centre retail area within that part of the site which fronts Clanbrassil Street. They contend that the proposed development does not seek to introduce a new use onto Clanbrassil Street but rather seeks to extend an existing successful business whilst maintaining an active, retail use fronting onto Clanbrassil Street.

They provide that the proposed development seeks to re-introduce retail and non-retail uses into a unit which has remained vacant for some time. They have included a Retail Survey and provide that the proposal demonstrates compliance with the Louth CDP 2015-2021 and the Dundalk and Environs DP 2009-2015. They contend that the proposed development accords with the town centre zoning afforded to the site and accordingly must be deemed in accordance with the proper planning and sustainable development of the area.

7.4 Design and Layout

The Schedule of Floor Areas as shown on the drawings submitted provides that the existing Boylesports retail floor area is 151.9sq.m and including that proposed is 204.2sq.m with a total floor area of 171.4sq.m and 237.2sq.m. The application form provides that the proposed extension to the Bookmakers – Boylesports is 52sq.m and the retail unit is 13sq.m i.e. 65sq.m at no.86 Clanbrassil Street. This provides retail to bookmakers use floor area of 45.6sq.m, ancillary storage area to use as bookmakers 6.4sq.m and 13sq.m of unit to remain as retail. Therefore, it is calculated that 80% of the floor area of the retail unit at no.86 is to be used as part of the bookmakers with only 20% remaining in retail use.

The floor plans show the ground floor site area in red with the area for proposed extension shown in blue. This would entail removing the internal dividing wall between the premises to form one larger unit for the bookmakers and one smaller separate area at the frontage for the retail unit. The extension of the bookmaker's use would be in the rear part of the unit. No external extensions are proposed.

As shown on the Floor Plans it is proposed to block up the windows at the rear facing the open courtyard area. Therefore, there would be no natural light to the rear part of the unit which forms the extension to bookmaker's premises. The existing shop fronts are to remain for the two separate units. The fascia signage is to be changed with the existing raised plastic signage to be removed and hand painted signs are to be provided to a new timber fascia for Boylesports.

No.87 has direct use of the large carpark at the rear and linkages to Clanbrassil St. No changes are proposed relative to parking and access.

7.5 Regard to Retail issues

Regard is had to the Retail Planning Guidelines 2012. Section 4.4.1 notes that: *The Centres of Cities and Town Centres are the most suitable locations for the higher order fashion and comparison goods and are the most accessible locations for the majority of the catchment population. This includes that: They should be supported in maintaining and expanding their retail offer to serve that population in a sustainable way which will also help to reduce the need to travel.*

Section 4.6 refers to the Sequential Approach and Extension – Change of Use Applications and includes relative to proposals for the extension or material change of use of existing development that such extensions will have to be assessed in the context of the floorspace requirements of the development plan/relevant retail strategy where appropriate.

Annex 2 of the Guidelines refers to *Assessing the Vitality and Viability of Town Centres* and this includes regard to 'Health Checks' and detailed land use surveys. Regard is had to the survey carried out by HRA Planning which shows colour coded the subject site, retail, non-retail and vacant premises. This does not distinguish between the mix of uses. It is noted that the subject premises is three storey and the current application only refers to the ground floor use.

Policy TC 2 which is referred to in the Council's refusal seeks to: *Resist the conversion of ground floors of retail premises to non retail uses in the town centre retail zone. Any proposed development within the town centre retail zone shall include a minimum of 20% residential in upper floors.*

The First Party provides that this does not seek to 'prohibit' rather to 'resist'. Table 2.4 of the Dundalk and Environs Plan provides the Zoning Matrix. This includes that a Betting Office is 'open to consideration' in the Town Centre Retail Zone. However it also includes that retail is the permitted use in this zone. It is of note that no definite retail use has been suggested for the small retail area proposed. If the Board decide to permit it is recommended that it be conditioned that this unit be occupied by a retail use to be agreed with the Council prior to the commencement of the use of the amalgamated unit at the rear.

The First Party refers to the issue of precedent and note that permission was granted subject to conditions by the Council for retention of an extension of a licensed premises into a retail/café at 99 Clanbrassil Street (Reg.Ref. 12/92 refers – copy is included in the Appendix to this Report). However each case needs to be considered on its merits. It also needs to be considered whether this proposal would be desirable in that it would provide an active use for a vacant unit or whether it would set a precedent for other such subdivision in units, ultimately leading to a greater mix/level of non-retail units in this town centre land use zoning.

7.6 Impact on the Character and Amenities of the area

Appendix 7 of the Dundalk and Environs Development Plan refers to ACA's and Clanbrassil St. is included in ACA 4. *The primary purpose in the designation of this ACA is to protect and enhance the character of the streetscape and the setting of Protected Structures.* The development seeks to improve the overall visual quality of the ACA by enhancing the existing Boylesports shopfront and shopfront signage. It is noted that the Conservation Officer has supported their proposed changes to the signage to improve the character of the ACA. It is considered that the proposed changes to signage would be a general improvement, particularly as the existing signage for Boylesports does not add to the attractiveness of the ACA. In this respect the proposal would comply with Policy CH10.

The internal changes to the premises would not impact on the visual from the streetscape. However the proposed subdivision would lead to an amalgamation of an existing integral separate unit and to a change in character of the existing building.

Having regard to the assessment above and to planning policy I would consider that the proposed development would not add to the amenities of the area, in that it would lead to the provision of a very small retail frontage area, the viability of which as a separate unit is questionable. It would more likely be ancillary to the bookmakers use. It is therefore considered that the proposal would set an undesirable precedent, would not comply with the tenor of planning policy TC2 or the zoning objective for the Town Centre Retail area.

7.7 Appropriate Assessment

The application site is located c.1.5km from Dundalk Bay SAC and Dundalk Bay SPA. It is considered that having regard to the nature and scale of the development which is for a change of use in a fully serviced town centre location, and to the nature of the receiving environment, that no appropriate assessment issues arise.

8.0 Recommendation

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

9.0 Reasons and Considerations/ Reasons

Having regard to the location and character of the existing vacant retail premises within the Clanbrassil Street Architectural Conservation Area, and to the zoning objective for the town centre retail area and to Policy TC2 of the Dundalk and Environs Development Plan 2009-2015 (as extended) which seeks “to resist the conversion of ground floors of retail premises to non-retail uses in the town centre retail zone”, it is considered that the proposed change of use would lead to a reduced retail area that would be seen as subordinate to the Bookmakers use. It would conflict with and be contrary to Policy relative to town centre retail and set an undesirable precedent for such amalgamation of separate units and be contrary to the proper planning and sustainable development of the area.

Angela Brereton

Planning Inspector

20th of September 2016