



An
Bord
Pleanála

Inspector's Report PL91.247034.

Development	Extension to an existing entertainment venue.
Location	Dominic Street/Hunt's Lane and 42/43 Parnell Street, Limerick.
Planning Authority	Limerick City and County Council.
Planning Authority Reg. Ref.	16/233.
Applicant(s)	Marine Pine Ltd.
Type of Application	Permission.
Planning Authority Decision	Grant permission.
Type of Appeal	Third Party versus decision.
Appellant(s)	N E O'Keefe.
Observer(s)	None.
Date of Site Inspection	18 October 2016.
Inspector	Stephen Rhys Thomas.

1.0 Site Location and Description

- 1.1. The appeal site is located in the south eastern portion of Limerick City centre at the outer edge of the historic Georgian quarter. The site lies within back streets, between Dominic Street, Davis Street, Parnell Street and Hunt's Lane. This area is characterised by narrow laneways which serve a variety of residential, commercial, office and light industry based units. Colbert Station, Limerick City's mainline railway station is located to the east of the site across Parnell Street. There is an attractive pedestrian plaza to the front of the railway station. Hunt's Lane, which runs down the side of the appeal site is a narrow laneway which tapers noticeably at its junction with Parnell Street. The buildings along Hunt's Lane are in poor repair, the public realm is not well maintained and public lighting is generally poor. The main elevation associated with the development proposal is located along Hunt's Lane, it has been improved and is in good repair. The rear of the appeal site fronts onto a parking court associated with the Tait Business Centre and accessed along a gated and narrow laneway to the rear of residential units, 1-6 Little Glentworth Street.
- 1.2. The appeal site is part of a wider development block which has been relatively recently updated and is in use as an entertainment venue, which includes; café, pub, casino, amusement arcade, bingo hall, all under the business banner of the Parnell Plaza Entertainment Venue. The wider city block area, to the west of the site is characterised by the large public space associated around Saint Saviour's Dominican Catholic Church, Baker Place and Pery Street. The late Georgian buildings associated with the original street layout still survive with the exception of the corner of Glentworth Street and Pery Street which has been redeveloped for a mixed use apartment scheme and includes a casino.

2.0 Proposed Development

- 2.1. The development comprises the conversion of an existing office/industrial building to a variety of commercial leisure uses, including amusement hall, private members club, together with shows, exhibitions, displays and indoor sports when either of the principal uses are not utilised. Included in the proposal are changes to the building elevation on Hunt's Lane. The overall floor space to undergo a change of use will amount to 201sq.m., and will comprise a 50/50 split between amusement hall and

private members club. To facilitate access to the change of use area, internal modifications are required to the existing entertainment and leisure facility, including a new doorway and corridor. An internal mobile café facility is also proposed.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to conditions with regard to financial contributions and signage. *

* I note that the Notification to Grant states 7 conditions, however, the second schedule only contains two and part of condition 3.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The initial planning report required further information with regard to the noise impact of the proposal on local residents, proposed signage amendments and the adequacy of the street lighting along Hunt's Lane.
- The second planning report recommended conditions with regard to signage, noise and improved street lighting for Hunt's Lane.

3.2.2. Other Technical Reports

Air, Noise, Water Pollution and Public Health Department Report, recommends standard technical conditions.

3.3. Prescribed Bodies

Health Services Executive Report, recommended standard conditions with regard to the mobile café.

3.4. Third Party Observations

Two submissions were received by the planning authority and refer to a number of issues which are repeated in the grounds of appeal.

4.0 Planning History

Appeal site

Planning register reference number 15912, permission granted (June 2016) for the change of use from a betting office to a restaurant and ancillary takeaway, rear first floor extension, façade improvements to first floor and new shop front with private access door onto Hunt's Lane.

Planning register reference number 12770081, permission granted (January 2013) for the change of use of the existing vacant building at ground floor level from industrial use to an entertainment venue, new elevational treatment and signage fronting onto Hunt's Lane, single storey extension to the northwest side and modifications to existing adjacent permitted development.

Planning register reference number 12770008, permission granted (May 2012) for modifications to permitted development (P09/221) minor changes to the elevations and temporary permission for a change of use of part of the industrial building at Dominic Street Enterprise Centre, located to the rear of the premises, to an amusement hall with ancillary toilets and office space, to facilitate the existing amusement hall operation on site whilst demolition and construction work is under way.

Planning register reference number 09770221, permission granted (March 2010) for the demolition of the existing shop and amusement hall at 42 & 43 Parnell Street and the construction of a 3 storey building (1644.05 sq.m) and a yard. The new building will contain a coffee shop, merchandising retail area, amusement hall, courtyard and putting green at ground floor level, a snooker club at first floor level and a cinema-ette, an international sports museum and associated offices at second floor level.

Planning register reference number 04770330, permission granted (January 2005) for the change of use from retail Licensed Betting Office.

5.0 Policy Context

5.1. Development Plan

Limerick City Development Plan 2010-2016

The appeal site is located within the following zone of the City Development Plan: Landuse Zoning Map Number 1 – Zone 1 (A, B, C) City Centre Area. This zoning class is further refined and in Map 1A: City Centre Zoning Objectives – the zoning is detailed as City Centre Commercial Area (CCCA).

The City Centre Commercial Area (CCCA) is defined in the Development Plan as:

The CCCA reflects the commercial and employment zone of the City Centre, extending from the City Centre Retail Area. All uses are permitted throughout the CCCA, except comparison retail uses, which are restricted to the City Centre Retail Area unless they serve a local need only.

Policy CC.4 City Centre Commercial Area

It is the policy of Limerick City and County Council to support the retention and expansion of a wide range of commercial, cultural, leisure and residential uses in the commercial core area (apart from comparison retail uses).

Takeaway/Off license/Amusement Centre/Gaming Zone

In order to maintain an appropriate mix of uses and protect night time amenities in a particular area, it is the objective of Limerick City Council to prevent an excessive concentration of takeaways, off-licenses, amusement centres or gaming zones and to ensure that the intensity of any proposed use is in keeping with both the scale of the building and the pattern of development in the area.

The provision of such facilities will be strictly controlled, having regard to the following, where considered appropriate:

- The effect of noise, general disturbance, hours of operation, litter and fumes on the amenities of nearby residents.
- Traffic considerations.
- The number of such facilities in the area.
- Litter control measures.

5.2. **Natural Heritage Designations**

None.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The grounds of appeal can be summarised as follows:

- Proposed Uses – the public notice which advertised the proposed development did not include all the other leisure uses which were outlined in the planning application.
- Overconcentration of gaming zones –the proposed amusement centre/gaming zone will lead to an overconcentration of such uses in the city centre and is contrary to the Limerick City and County Development Plan.
- Traffic and Parking – the proposed development will exacerbate car parking in the vicinity.

The appellant uses the term overdevelopment in their grounds of appeal to describe the proposed use of the building in terms of the Gambling Control Bill and the emergence of super casinos. This is not a planning matter and cannot be assessed in this appeal.

6.2. **Applicant Response**

This can be summarised as follows:

- Proposed uses – the proposed uses which will conform with use classes listed under Class 11 of Schedule 2 Part 4 of the Planning and Development Regulations 2001 (as amended), that is (a) a theatre, (b) a cinema, (c) a concert hall, (d) a bingo hall, (e) a skating rink or gymnasium or for other indoor sports or recreation not involving the use of motor vehicles or firearms. All uses which conform with the planning requirements will also comply with other legislation, such as Anti Money Laundering and Gaming and Lotteries Act. In addition, the applicant consents to a condition which would restrict the use of the extension area so that either amusement or members club area would not exceed 50%.
- Overconcentration – this is a small extension to an already operating leisure facility and the proposed uses conform with the city centre commercial zoning of the site. The amended proposal is appropriately located and addresses issues to do with the residential amenity of local residents. Patrons are directed to enter the premises from Parnell Street away from the residential units to the rear, minimising disturbance. This is a mixed use area with a variety of uses, both daytime and night time. The proposed re-use of a vacant space will add to the vitality of the area.

6.3. **Planning Authority Response**

None.

6.4. **Observations**

None.

7.0 **Assessment**

7.1. The main issues in this appeal are those raised in the grounds of appeal, I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Proposed use – planning application description.

- Overconcentration of gaming uses and Development Plan Policy.
- Traffic and Parking.
- Appropriate Assessment.

7.2. Proposed Use - planning application description

7.2.1. The appellant contends that not all the proposed uses which the applicant sought were detailed in the public notices for the planning application. The appellant goes on to suggest that if the development was completed, it may lead to confusion amongst underage patrons, who may or may not be allowed to frequent the establishment based upon legislation to do with gambling. There are fears that this could lead to future legal challenge.

7.2.2. In the first instance the public notice which accompanied the planning application was accepted by the planning authority and the application was considered to be valid. The public notice reads as follows:

- An extension to the existing entertainment venue granted under P12/81. The development will include (i) a change of use of an existing vacant building from office and industrial use to an entertainment venue with specific provision for use of part of that venue as an amusement hall and as a private members club, (ii) provision of an internal mobile café facility, (iii) integration of the extension into the permitted mixed use development granted under P09/221, P12/8 & P12/81, (iv) minor elevation changes on Hunts Lane and erection of vertical signage and (v) all associated site development works. Public access to the extended entertainment venue shall be from Hunts Lane and from Parnell Street through the permitted mixed use development.

The purpose of the public notice under articles 18 and 19 of the Planning and Development Regulations 2001 (as amended) is to inform the public of the proposed development and alert them as to its nature and extent. The public notice should be drafted so as to give a brief indication as to the nature and extent of the proposed development and is not required to go into excessive detail. A notice is not required to include details that can reasonably be assumed to be part of a normal part of development. In this respect I consider that the applicant has drafted a public notice which headlines the type of development, a change of use from office/industry to an

entertainment venue, specifically an amusement hall and as a private member's club. The applicant has also included, the other primary elements such as elevational changes, signage, access points to the proposed development and previous planning permission reference numbers. All of this information is sufficient enough to allow any third parties to reasonably assume the thrust of the proposal. I therefore, consider that the public notice is acceptable.

7.2.3. In terms of the Class of Use proposed, I refer to Class 10 and Class 11 of Part 4 Schedule 2, Exempted Development – Classes of Use, of the Planning and Development Regulations 2001 (as amended). Class 10 refers to uses such as museum, exhibition hall and community centre; Class 11 refers to bingo hall, skating rink or other indoor recreational activities. In addition to amusement hall and private members club, the applicant has mentioned some or all of these activities in order to expand the flexibility of the entertainment facility and ensure the viability of the venture. Use Classes in this context are useful in determining whether or not a development requires planning permission. With respect to this assessment of a planning application, I consider that all of the activities listed by the applicant would be acceptable at this location and are encompassed by the development description provided – 'Entertainment Venue'. The applicant has consented to the attachment of a condition that would limit the use of the extension area for either amusement hall or private members club to 50% respectively. I consider that such a condition would be unreasonable and difficult for the planning authority to enforce and unnecessary given the foregoing.

7.2.4. With regard to the age profile and acceptability of patrons frequenting the establishment, this is a matter for the management of the entertainment facility and compliance with various betting and gambling legal requirements for the premises. In addition, the management of the entertainment facility is obliged to comply with any planning permissions for the site. Failure to do so could result in enforcement action being taken. This would be a matter for the planning authority in due course.

7.3. Overconcentration of gaming uses and Development Plan Policy

7.3.1. The appellant highlights concern that the expansion of the existing gaming facility will lead to an overconcentration of such uses and would be contrary to the City Development Plan. The applicant proposes to convert an existing vacant space

(office/industry) to an extension of the existing gaming and leisure facility. Based upon the information submitted, the existing premises amounts to a ground floor space of approximately 1,059 sq.m., excluding connected uses, such as a café, toilets and a shared internal courtyard to the Charlie St George public house. There are other related and permitted uses on upper floors such as bingo, gaming arcade and card club. In terms of ground floor use alone, the proposed conversion will amount to an approximate 20% increase of an existing gaming and leisure facility, less if upper floors are included. I do not consider the proposed change of use proposal to be of a scale that would suggest an excessive extension to the existing premises.

7.3.2. The uses proposed would be permitted in principle in the current land use zoning, in which it is the policy of Limerick City and County Council to support the expansion of a wide range of commercial, cultural, leisure and residential uses in the City Centre Commercial Area. The City Development Plan, seeks to prevent excessive concentration of Amusement Centre and Gaming Zones. This is controlled by the consideration of the following relevant factors:

- The effect of noise, general disturbance, hours of operation, litter and fumes on the amenities of nearby residents.
- Traffic considerations.
- The number of such facilities in the area.

7.3.3. I note that the impact to local residents of the expansion of the existing facility was identified by the planning authority and a report concerning noise generation was requested as further information. The parameters of the further information request required that residents in the area would not be subjected to noise levels greater than 45dBA after 19.00hrs and 55dBA during the day. Subsequently, a technical report by AWN Consulting was submitted. The Noise Management Statement Report set out to gather baseline noise data for the site, anticipate likely noise generation during set operating hours (10.00 and 00.00hrs and occasionally 02.00hrs) and consider noise control mechanisms. AWN Consulting utilised baseline data which predates the existing entertainment venue, which they considered to best represent an urban environment. The predicted noise levels were considered to not include music concerts, but rather emanate from spoken word

performance (bingo, trade shows, community events) and mechanical plant. With regard to worst case scenario entertainment noise from the building; the report calculates that 43dB LAeq at residential properties would result and 53dB LAeq at non-residential properties. A blank gable wall of the nearest residential property is located approximately 20 metres to the northern boundary of the appeal site. Though no new external plant formed part of the development proposal, the report includes existing plant in its calculation of cumulative noise levels. The report concludes that predicted night time noise levels experienced at residential properties would be below the required criterion of 45dB LAeq.

7.3.4. I consider that the report has been prepared by a competent person and adequately addresses the issues associated with the operation of an entertainment venue in a city centre location where residential units exist alongside commercial properties. The report outlines noise management mechanisms and I recommend that all of these measures are carried out in order to preserve the existing residential amenity enjoyed by nearby houses and apartments. The effect of noise, general disturbance associated with the venue and the hours of operation, on the amenities of nearby residents has been adequately addressed by the applicant. Given the city centre location and the degree of evening noise which is currently and likely to be generated by the entertainment venue, I am satisfied that any noise nuisance issues can be addressed and managed by condition. In this respect I recommend that the developer be required to implement a suitable noise monitoring programme with annual reviews to be agreed with the Planning Authority.

7.3.5. Traffic considerations are assessed in greater detail in section 7.4 below.

7.3.6. The number of gambling type facilities in the wider area is noted. For example, there are a number of bookmakers within a walking distance of the appeal site. I also note that a recent permission (15/912) for the change of use of a bookmakers (currently a vacant unit) to a restaurant and ancillary takeaway, will provide variety of uses for the appeal site. Of specific relevance to the grounds of appeal, however, is the location of a similar type of facility, Fitzpatrick's Casino located at Pery Street, approximately 200 metres to the north west. I do not think it is appropriate to equate the existence of two similar Amusement Centre and Gaming Zones as constituting an excessive concentration. Firstly, I consider that the two venues are sufficiently separated from each as so as not to injure the residential amenities of the area by

way of overconcentration. Secondly, the proposal under assessment is for a moderate expansion of an existing facility which has been permitted and has operated over a number of years. In addition, the proposed development will bring into use a vacant unit and lead to some uplift and improvement to a poorly lit and somewhat uninviting laneway (Hunt's Lane). Such developments will accord with other Council objectives to promote safety and security for the general public using the city's streets. I conclude therefore, that the proposed development complies with the City Development Plan for the area.

7.4. Traffic and Car Parking

7.4.1. The site is located in a city centre location, close to public transport and on-street parking as well as to large public car parks in the immediate vicinity of the appeal site and the wider area. The existing business premises and the surrounding mixed use developments are characteristic of a city centre location, where it is not expected that car parking will always be provided at your destination. It is recognised that it is not always possible to provide car parking in accordance with Development Plan standards. In this instance the City Development Plan provides for an easing of car parking standards in certain circumstances and accepts development contributions in lieu of actual car parking spaces in the city centre. In addition, given the entertainment nature of the existing and proposed uses on the appeal site, it is highly likely that patrons will arrive on foot, taxi or other form of public transport. Therefore, given the nature of the existing entertainment and leisure facility and the scale of the proposed change of use application it is not envisaged that a perceptible or inconvenient level of increased traffic generation will result.

7.5. Appropriate Assessment

7.5.1. Having regard to the nature and scale of the development that is proposed within an established urban environment, 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.

8.0 Recommendation

8.1. I recommend that planning permission should be granted, subject to conditions, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

Having regard to the location of the site within the “Zone 1 (A, B, C) City Centre Area” zoning objective for the site in the Limerick City Development Plan 2010-2016 which seeks to support the retention and expansion of a wide range of commercial, cultural, leisure and residential uses in the commercial core area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area and would be acceptable in terms of traffic and parking. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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 17 day of June 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. Details of all external elevations and signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the amenities of the area/visual amenity.

3. A noise monitoring programme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, to include an annual review undertaken by a qualified acoustic engineer at the

nearest noise sensitive location. The developer shall carry out any amendments to the subject development requested by the planning authority subject to the review.

Reason: In the interest of protecting the amenity of the nearby residential properties.

4. (a) The noise level shall not exceed 55 dB(A) rated sound level (that is, corrected sound level for a tonal or impulsive component) at the nearest noise sensitive residential location between 0800 and 2000 hours, Monday to Friday inclusive, and shall not exceed 45 dB(A) at any other time.

(b) The Noise Management Mechanisms detailed in the AWN Consulting Noise Management Statement Report submitted to the planning authority on the 17 June 2016, shall be implemented in full. Procedures for the purpose of determining compliance with the Noise Management Mechanisms shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect the residential amenities of property in the vicinity of the site.

5. Comprehensive details of the proposed public lighting system to serve the development along Hunt's Lane shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. The agreed lighting system shall be fully implemented and operational, before the proposed development is made available for occupation.

Reason: In the interest of public safety and visual amenity.

6. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the

planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Stephen Rhys Thomas
Planning Inspector

1 November 2016