



**An  
Bord  
Pleanála**

**Inspector's Report**

**PL19.247318**

**Development**

Additional of Use of Gaming Machines in conjunction with existing Approved Private Members Club granted under Reg. Ref. 14/008 at 8 O'Connor Square, Tullamore, Co. Offaly.

**Planning Authority**

Offaly Co. Co.

**Planning Authority Reg. Ref.**

PL2/1634

**Applicant(s)**

John Morrissey

**Type of Application**

Permission

**Planning Authority Decision**

Refuse Permission

**Appellant(s)**

John Morrissey

**Observer(s)**

None

**Date of Site Inspection**

24/01/2017

**Inspector**

Caryn Coogan

## **1.0 SITE LOCATION AND DESCRIPTION**

- 1.1 The site is situated in within the town centre and main commercial hub of Tullamore, at 8 O'Connor Square, Tullamore. It is a three storey terraced house built in 1787 and it is a protected structure reference number 23-391. The subject site is on the ground floor of the building, 142.81sq.m. There are two shop units on the ground floor.
- 1.2 Internally the ground floor includes wall-to-wall gaming machines, with toilets to the rear and a small kitchenette.

## **2.0 DEVELOPMENT**

- 2.1 The development is for the retention permission for the addition of the use of gaming machines in conjunction with approved private members club granted planning permission by Offaly Co. Co. under register reference number TU/14/008 at Pot of Gold which is a Protected Structure (Ref. 23-391).
- 2.2 There are no construction works externally or internally associated with the application. There would be no change in the number of staff employed, the hours of opening previously granted would be adhered to.

## **3.0 PLANNING AUTHORITY DECISION**

### **3.1 DECISION**

Offaly Co. Co. refused the development for one reason:

The retention of gaming machines at this property would consolidate a non-retail use at this central location would impact negatively on the central shopping area of Tullamore and undermine the Viability and vitality of the Town Centre as a whole and would therefore be contrary to policy TTEP 07-09 of the Tullamore and Environs Development Plan 2010 -2016 which states 'It is the Council's policy to encourage retail development including new forms of shopping which relates to the regeneration of the existing town centre. Proposals which would undermine the vitality and visibility of the Town Centre as a whole will not be permitted.

### **3.2 TECHNICAL REPORTS**

There were no objections to the development from the Area Engineer, Environment, County Fire Officer. The county Architect did raise concerns

that the proposed use is to be located within one of the main civic spaces in the county.

### **Planning Report:**

The relevant development plan standards are

*TTEP 07-07 It is the Council's policy to resist the loss of retail units to non-retail use at pedestrian level, particularly in the primary shopping frontages in town centre.*

*TTEP 07-09 It is the Council's policy to encourage retail development including new forms of shopping which relates to the regeneration of existing town centres. Proposals which would undermine the vitality and viability of the Town Centre as a whole should not be permitted.*

The proposal does not comply with these policies, a refusal is recommended.

## **3.3 THIRD PARTY SUBMISSIONS**

There were none received.

## **4.0 PLANNING HISTORY**

### **4.1 TU 14/8**

John Morrissey was granted permission for change of use of premises from betting shop (William Hill) to private members cards club and associated works and signage (a protected structure). There is a planning Enforcement history associated with this case, the applicant was issued a Warning Letter in respect of the gaming machines.

### **4.2 P.D. 1858**

Nearby site decision to refuse permission to Michael Gowan for the change of use from a coffee shop to an amusement arcade at Market Square, Tullamore. The decision was appealed to An Bord Pleanála, who granted planning permission for the development on 5<sup>th</sup> of December 1985.

## **5.0 POLICY CONTEXT**

**5.1** The site is within the Offaly County Development Plan, and the Tullamore LAP 2006-2016 which has been extended to 2020. The site is within the **Town Centre** area. The proposed use is A. The Town Centre Zoning Objective identifies compatible uses within zoning objective to include leisure and recreational uses, and Amusement Arcade/ Fair are Open to consideration.

TTEP 07-07 *It is the Council's policy to resist the loss of retail units to non-retail use at pedestrian level, particularly in the primary shopping frontages in town centre.*

TTEP 07-09 *It is the Council's policy to encourage retail development including new forms of shopping which relates to the regeneration of existing town centres. Proposals which would undermine the vitality and viability of the Town Centre as a whole should not be permitted*

## **6.0 THE APPEALS**

**6.1** It is strongly refuted by the applicant that a small number of gaming machines located within the existing envelope of the approved private members club contravenes in any way Policy TTEP 07-09 or will undermine the vitality or viability of the town centre as alleged by the planning authority. The planning authority fail to acknowledge that it granted planning permission for a change of use from a betting shop to a private members club, and associated signage. There are no changes internally or externally to the building. Given the planning histories cited within Tullamore and on the subject site, there are no valid grounds for refusal of the permission. The applicant could be forgiven for his failure to understand the inconsistencies shown in the Council's decision making in relation to his application. The planning authority has ignored its own permission for the private members club on the subject site under the same Local Area Plan. There is no explanation why this modest inclusion within an approved envelope could contravene Policy TTEP 07-09 as alleged.

The gaming machines are ancillary to and complimentary to the main use. The use sought is not precluded under the zoning objective. The facility will remain a private members club, whereby members can walk in off the street. The subject site is surrounded on all sides by commercial uses. The subject development is small scale, and there are no Natura 2000 sites within the immediate vicinity. The development will not affect the integrity of any European Site.

## **7.0 ASSESSMENT**

**7.1** As stated above, this development relates to the retention of gaming machines within a permitted Private Members Club within the central commercial core area of Tullamore, Co. Offaly. According to the application documents, the existing Private Members Club has been in operation since December 2014. The electronic gaming machines are contained within the approved floor area envelope of the building on the ground floor. The private members club was granted planning permission in 2014 under planning registration number **TU 14/8**. According to the planning application there is no entry to the premises by the public without prior application, and patrons have to go through a security identification

prior to entering the club. The club will operate seven days per week from 10.00am to 12.00pm, with a total of 5No. employees.

7.2 During my inspection, there was full public access to the facility. There was no indication internally this was a private club, as there are wall to wall gaming machines. There was one member of staff present. To all intense purposes, this is a normal gaming outlet, and appears to be dressed up in the planning drawings as a card playing area and certain wall areas have 'internet terminals' (as quoted from Drawing 2015-009-02). The internal layout is not as per the submitted drawings, there are gaming machines along both sides of the ground floor of the premises, and another section of back to back machines at the designated card playing area.

7.3 The planning authority cited policies from the relevant development plan relating to retailing:

**TTEP 07-07** *It is the Council's policy to resist the loss of retail units to non-retail use at pedestrian level, particularly in the primary shopping frontages in town centre.*

**TTEP 07-09** *It is the Council's policy to encourage retail development including new forms of shopping which relates to the regeneration of existing town centres. Proposals which would undermine the vitality and viability of the Town Centre as a whole should not be permitted.*

The planning authority refused the development on the basis it would have a negative impact on the central shopping area of Tullamore and undermine the vitality of the town.

7.4 On appeal the applicant has submitted the following grounds refuting the planning authority's reason for refusal

- This is a private members club and will only be accessible to private members to the exclusion of the general public.
- The use for amusement arcade is open for consideration under the Town Centre Zoning Objective.
- The planning authority ignored their own grant of planning permission on the subject site for a change of use from a betting office to a private members club granted under TU 14/8.
- There is no reference in the planning assessment as to how the gaming machines would detract or otherwise create an inactive use at this location. The assessment concentrates on the Gaming and Lotteries Act.
- There are no valid planning grounds to refuse the development based on the planning history of the site. Under TU 12/22 for retention permission of extension to existing amusement arcade within the protected structure. The site is located in a similar area to the appeal site and is also zoned Town Centre.

7.5 The subject site is a Protected Structure in the development plan. It is a commanding three storey building with five bays. There are two shop units

on the ground floor and the subject site is one of them. The site is located within the **Core Retail Area** and an **Architectural Conservation Area** of Tullamore. The main landuses within the vicinity of the site are retailing. The shop front includes darkened out windows. The doorway is manned by CCTV cameras. Although the doorway was open to the public during my inspection, it can be control by a PIN code. Inside, there is an amusement arcade or gaming machines. I agree with the planning authority, this use contributes nothing to the retail activity along the street as it is a dead frontage along the streetscape. You cannot see into the building from the streetscape. Having regard to the development retailing/ town centre policies cited above, I would agree with the planning authority's reason for refusal in this instance.

7.6 However, I must address the fact the planning authority did not assess the merits of the case given the permitted development on the site granted by it in 2014 whereby permission was granted for a change of use from a Betting Shop to a Private Members cards club under reference TU 14/008. The applicant was asked by way of further information, Item 1a) Please clarify if any gambling machines will be used on the premises. The applicant responded stating there would be no gambling machines used. Following the discovering of such machines on the premises the planning authority issued a WARNING LETTER **UD15/017** on the 9<sup>th</sup> of July 2015. Therefore the applicant was fully aware from the preceding history of the planning authority's negative position regarding gambling/ gaming machines on the subject site. I believe it is disingenuous of the applicant to cite TU 14/8 as justification to permit the current change of use to a gaming/ amusement hall when it was made clear during the assessment of the previous case that the planning authority would not consider favourable such a use on the subject site.

## 8.0 RECOMMENDATION

I recommend the planning authority's decision to refuse is upheld.

## **REASONS AND CONSIDERATIONS**

The retention of gaming machines at this property would consolidate a non-retail use at this central location would impact negatively on the central shopping area of Tullamore and undermine the viability and vitality of the Town Centre as a whole and would therefore be contrary to policies TTEP 07-07 and TTEP 07-09 of the Tullamore and Environs Development Plan 2010 -2016, the stated policies are considered to be reasonable whereby they seek to resist the loss of retail units to non-retail units at pedestrian level, and to encourage retail development relating to the regeneration of the existing town centre. The proposed development would be contrary to the proper planning and sustainable development of the area.

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**Caryn Coogan**

**Planning Inspector**

**27/01/2017**